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Chapter 1.—COMMODITY EXCHANGES

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§ 2. Definitions.

For the purposes of this chapter "contract of sale" shall be held to include sales, agreements of sale, and agreements to sell. The word "person" shall be construed to import the plural or singular, and shall include individuals, associations, partnerships, corporations, and trusts. The word "commodity" shall mean wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, Solanum tuberosum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice, and all other goods and articles, except onions as provided in section 13–1 of this title, and all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in: *Provided*, That the Commission shall have exclusive jurisdiction with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty"), and transactions involving contracts of sale of a commodity for future delivery, traded or executed on a contract market designated pursuant to section 7 of this title or any other board of trade, exchange, or market, and transactions subject to regulation by the Commission pursuant to section 15a of this title: *And provided further*, That, except as hereinabove provided, nothing contained in this section shall (i) supersede or limit the jurisdiction at any time conferred on the Securities and Exchange Commission or other regulatory authorities

under the laws of the United States or of any State, or (ii) restrict the Securities and Exchange Commission and such other authorities from carrying out their duties and responsibilities in accordance with such laws. Nothing in this section shall supersede or limit the jurisdiction conferred on courts of the United States or any State. Nothing in this chapter shall be deemed to govern or in any way be applicable to transactions in foreign currency, security warrants, security rights, resales of installment loan contracts, repurchase options, government securities, or mortgages and mortgage purchase commitments, unless such transactions involve the sale thereof for future delivery conducted on a board of trade. The term "future delivery", as used in this chapter, shall not include any sale of any cash commodity for deferred shipment or delivery. The words "board of trade" shall be held to include and mean any exchange or association, whether incorporated or unincorporated, of persons who shall be engaged in the business of buying or selling commodity or receiving the same for sale on consignment. The words "interstate commerce" shall be construed to mean commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof, or within any Territory or possession, or the District of Columbia. The words "cooperative association of producers" shall mean any cooperative association, cooperate or otherwise, not less than 75 per centum in good faith owned or controlled, directly or indirectly, by producers of agricultural products and otherwise complying with sections 291 and 292 of this title, including any organization acting for a group of such associations and owned or controlled by such associations, provided that business done for or with the United States of America, or any agency thereof, shall not be considered either member or nonmember business in determining the compliance of any such association with said sections. The words "member of a contract market" shall mean and include individuals, associations, partnerships, corporations, and trusts owning or holding membership in, or admitted to membership representation on, a contract market or given members' trading privileges thereon. The words "futures commission merchant" shall mean and include individuals, associations, partnerships, corporations, and trusts engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market and that, in or in connection with such solicitation or acceptance of orders, accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom. The words "floor broker" shall mean any person who, in or surrounding any "pit", "ring", "post", or other place provided by a contract market for the meeting of persons similarly engaged, shall purchase or sell for any other person any commodity for future delivery on or subject to the rules of any contract market. The words "the Commission" shall mean the Commodity Futures Trading Commission established under section 4a of this title. The term "commodity trading advisor" shall mean any person who, for compensation or profit, engages in the business of advising others, either directly or through publications or writings, as to the value of commodities or as to the advisability of trading in any commodity for future delivery on or subject to the rules of any contract market, or who for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning commodities; but does not include (i) any bank or trust company, (ii) any newspaper reporter, newspaper columnist, newspaper editor, lawyer, accountant, or teacher, (iii) any floor broker or futures commission merchant, (iv) the publisher of any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation including their employees, (v) any contract market, and (vi) such other persons not within the intent of this definition as the Commission may specify by rule, regulation, or order: *Provided*, That the furnishing of such services by the foregoing persons is solely incidental to the conduct of their business or profession. The term "commodity pool operator" shall mean any person engaged in a business which is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market, but does not include such persons not within the intent of this definition as the Commission may specify by rule or regulation or by order. (Sept. 21, 1922, ch. 369, § 2(a)(1), formerly § 2(a), 42 Stat. 998; June 15, 1936, ch. 545, §§ 2, 3, 49 Stat. 1491; Apr. 7, 1938, ch. 108, 52 Stat. 205; Oct. 9, 1940, ch. 786, § 1, 54 Stat. 1059; Aug. 28, 1954, ch. 1041, title VII, § 710(a), 68 Stat. 913; July 26, 1955, ch. 382, § 1, 69 Stat. 375; Feb. 19, 1968, Pub. L. 90–258, § 1, 82 Stat. 26; July 23, 1968, Pub. L. 90–418, 82 Stat. 413; renumbered and amended Oct. 23, 1974, Pub. L. 93–463, title I, § 101(a)(1), (2), title II, §§ 201, 202, Oct. 23, 1974, 88 Stat. 1389, 1395.)

CODIFICATION

Section consists of part of subsec. (a)(1) of section 2 of the Commodity Exchange Act, act Sept. 21, 1922. The remainder of such subsec. (a)(1) is classified to section 4 of this title. Subsec. (a)(2)–(11) of section 2 of the Commodity Exchange Act is classified to section 4a of this title. Subsec. (b) of section 2 of the Commodity Exchange Act is classified to section 3 of this title.

AMENDMENTS

1974—Pub. L. 93–463 struck out "onions," following "eggs," in the definition of "commodity" and added provisions to that definition to include as commodities all other goods and articles, except onions as provided in section 13–1 of this title, and all services, rights, and interests in which contracts for the future delivery are presently or in the future dealt in, added definitions for the terms "commodity trading advisor" and "commodity pool operator", and, as the definition of the words "the Commission", substituted "Commodity Futures Trading Commission established under section 4a of this title" for "Commodity Exchange Commission, consisting of the Secretary of Agriculture, the Secretary of Commerce, and the Attorney

General, or an official or employee of each of the executive departments concerned, designated by the Secretary of Agriculture, the Secretary of Commerce, and the Attorney General, respectively; and the Secretary of Agriculture or his designee shall serve as Chairman".

EFFECTIVE DATE OF 1974 AMENDMENT

Section 418 of Pub. L. 93–463 provided that:

"(a) Except as otherwise provided specifically in this Act [see Short Title note under section 4a of this title], the effective date of this Act shall be the 180th day after enactment [Oct. 23, 1974]. The Commission referred to in section 101 [Commodity Futures Trading Commission] is hereby established effective immediately on enactment of this Act [Oct. 23, 1974]. Sections 102 and 410 [amending sections 5108, 5314, 5315, and 5316 of Title 5] shall be effective immediately on enactment of this Act [Oct. 23, 1974]. Activities necessary to implement the changes effected by this Act may be carried out after the date of enactment [Oct. 23, 1974] and before as well as after the 180th day thereafter. Activities to be carried out after the date of enactment [Oct. 23, 1974] and before the 180th day thereafter may include, but are not limited to the following: designation of boards of trade as contract markets, registration of futures commission merchants, floor brokers, and other persons required to be registered under the Act [this chapter], approval or modification of bylaws, rules, regulations, and resolutions of contract markets, and issuance of regulations, effective on or after the 180th day after enactment [Oct. 23, 1974]; appointment and compensation of the members of the Commission; hiring and compensation of staff; and conducting of investigations and hearings. Nothing in this Act shall limit the authority of the Secretary of Agriculture or the Commodity Exchange Commission under the Commodity Exchange Act, as amended, prior to the 180th day after enactment of this Act [Oct. 23, 1974].

"(b) Funds appropriated for the administration of the Commodity Exchange Act, as amended [this chapter], may be used to implement this Act [see Short Title note under section 4a of this title] immediately after the date of enactment of this Act [Oct. 23, 1974]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6c of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 1–1182 of the District of Columbia Code.

§ 4. Liability of principal for act of agent.

CODIFICATION

Section 2(a) of act Sept. 21, 1922, was renumbered 2 (a)(1) by Pub. L. 93–463, title I, § 101(a)(1), Oct. 23, 1974, 88 Stat. 1389.

§ 4a. Commodity Futures Trading Commission.

(a) Establishment; composition; term of Commissioners.

There is hereby established, as an independent agency of the United States Government, a Commodity Futures Trading Commission. The Commission shall be composed of a Chairman and four other Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. In nominating persons for appointment, the President shall seek to establish and maintain a balanced Commission, including, but not limited to, persons of demonstrated knowledge in futures trading or its regulation and persons of demonstrated knowledge in the production, merchandising, processing or distribution of one or more of the commodities or other goods and articles, services, rights and interests covered by this chapter. Not more than three of the members of the Commission shall be members of the same political party. Each Commissioner shall hold office for a term of five years and until his successor is appointed and has qualified, except that he shall not so continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office, and except (A) any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (B) the terms of office of the Commissioners first taking office after the enactment of this subsection shall expire as designated by the President at the time of nomination, one at the end of one year, one at the end of two years, one at the end of three years, one at the end of four years, and one at the end of five years.

(b) Vacancies.

A vacancy in the Commission shall not impair the right of the remaining Commissioners to exercise all the powers of the Commission.

(c) General Counsel.

The Commission shall have a General Counsel, who shall be appointed by the Commission and serve at the pleasure of the Commission. The General Counsel shall report directly to the Commission and serve as its legal advisor. The Commission shall appoint such other attorneys as may be necessary, in the opinion of the Commission, to assist the General Counsel, represent the Commission in all disciplinary proceedings pending before it, represent the Commission in courts of law whenever appropriate, assist the Department of Justice in handling litigation concerning the Commission in courts of law, and perform such other legal duties and functions as the Commission may direct.

(d) Executive Director.

The Commission shall have an Executive Director, who shall be appointed by the Commission, by and with the advice and consent of the Senate, and serve at the pleasure of the Commission. The Executive Director shall report directly to the Commission and perform such functions and duties as the Commission may prescribe.

(e) Powers and functions of Chairman.

(1) Except as otherwise provided in this subsection and in subsections (c) and (d) of this section, the executive and administrative functions of the Commission, including functions of the Commission with respect to the appointment and supervision of personnel employed under the Commission, the distribution of business among such personnel and among administrative units of the Commission, and the use and expenditure of funds, shall be exercised solely by the Chairman.

(2) In carrying out any of his functions under the provisions of this subsection, the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(3) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(4) Personnel employed regularly and full time in the immediate offices of Commissioners other than the Chairman shall not be affected by the provisions of this subsection.

(5) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining the distribution of appropriated funds according to major programs and purposes.

(6) The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any functions of the Chairman under this subsection.

(f) Conflict of interest.

No Commissioner or employee of the Commission shall accept employment or compensation from any person, exchange, or clearinghouse subject to regulation by the Commission under this chapter during his term of office, nor shall he participate, directly or indirectly, in any contract market operations or transactions of a character subject to regulation by the Commission.

(g) Liaison with Department of Agriculture.

The Commission shall, in cooperation with the Secretary of Agriculture, establish a separate office within the Department of Agriculture to be staffed with employees of the Commission for the purpose of maintaining a liaison between the Commission and the Department of Agriculture. The Secretary shall take such steps as may be necessary to enable the Commission to obtain information and utilize such services and facilities of the Department of Agriculture as may be necessary in order to maintain effectively such liaison. In addition, the Secretary shall appoint a liaison officer, who shall be an employee of the Office of the Secretary, for the purpose of maintaining a liaison between the Department of Agriculture and the Commission. The Commission shall furnish such liaison officer appropriate office space within the offices of the Commission and shall allow such liaison officer to attend and observe all deliberations and proceedings of the Commission.

(h) Transmittal of budget requests and legislative recommendations to Congressional Committees.

(1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit copies of that estimate or request to the House and Senate Appropriations Committees and the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry.

(2) Whenever the Commission transmits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit copies thereof to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress. In instances in which the Commission voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Commission shall include a description of such actions in its legislative recommendations, testimony, or comments on legislation which it transmits to the Congress.

(i) Seal.

The Commission shall have an official seal, which shall be judicially noticed.

(j) Rules and regulations.

The Commission is authorized to promulgate such rules and regulations as it deems necessary to govern the operating procedures and conduct of the business of the Commission. (Sept. 21, 1922, ch. 369, § 2(a)(2)–(11), as added Oct. 23, 1974, Pub. L. 93–463, title I, § 101(a)(3), 88 Stat. 1389.)

CODIFICATION

Section consists of pars. (2)–(11) of section 2(a) of the Commodity Exchange Act. For purposes of codification the numbered pars. (2)–(11) have been translated as subsecs. (a)–(j), respectively, of this section, with subpars. (A)–(F) of par. (6) and subpars. (A) and (B) of par. (9) in the original being translated as pars. (1)–(6) of subsec. (e) and pars. (1) and (2) of subsec. (h) of this section, respectively.

Par. (1) of section 2(a) of the Commodity Exchange Act is classified to sections 2 and 4 of this title.

EFFECTIVE DATE

Section effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this section to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

SHORT TITLE

Section 1 of Pub. L. 93–463 provided: "That this Act [enacting this section and sections 6j, 6k, 6l, 6m, 6n, 6o, 6p, 9a, 12–2, 12–3, 12c, 13a–1, 15a, 18, 19, 20, 21, and 22 of this title, amending sections 2, 4, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6i, 7, 7a, 7b, 8, 9, 11, 12, 12–1, 12a, 12b, 13, 13a, 13b, 13c, 15, and 16 of this title and sections 5314, 5315, 5316, and 5108 of Title 5, Government Organization and Employees, and enacting provisions set out as notes under this section and sections 2 and 6a of this title] may be cited as the 'Commodity Futures Trading Commission Act of 1974'."

SEPARABILITY OF PROVISIONS

Section 413 of Pub. L. 93–463 provided that: "If any provision of this Act [see Short Title note under this section] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby."

TRANSFER OF PERSONNEL, PROPERTY, RECORDS, AND FUNDS TO COMMODITY FUTURES TRADING COMMISSION

Section 104 of Pub. L. 93–463 provided that: "All of the personnel of the Commodity Exchange Authority, property, records, and unexpended balance of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with administration of the Commodity Exchange Act [this chapter] shall be transferred to the Commodity Futures Trading Commission upon the effective date of this Act [see Effective Date of 1974 Amendment note under section 2 of this title]."

TRANSFER OF OPERATIONS TO COMMODITY FUTURES TRADING COMMISSION

Section 411 of Pub. L. 93–463 provided that: "All operations of the Commodity Exchange Commission and of the Secretary of Agriculture under the Commodity Exchange Act [this chapter], including all pending administrative proceedings, shall be transferred to the Com-

modity Futures Trading Commission as of the effective date of this Act [see Effective Date of 1974 Amendment note under section 2 of this title] and continue to completion. All rules, regulations, and orders heretofore issued by the Commodity Exchange Commission and by the Secretary of Agriculture under the Commodity Exchange Act [this chapter] to the extent not inconsistent with the provisions of this Act [see Short Title note under this section] shall continue in full force and effect unless and until terminated, modified, or suspended by the Commodity Futures Trading Commission."

NON-ABATEMENT OF PENDING PROCEEDINGS

Section 412 of Pub. L. 93–463 provided that: "Pending proceedings under existing law shall not be abated by reason of any provision of this Act [see Short Title note under the section] but shall be disposed of pursuant to the applicable provisions of the Commodity Exchange Act, as amended [this chapter], in effect prior to the effective date of this Act [see Effective Date of 1974 Amendment note under section 2 of this title]."

REPORT TO CONGRESS RESPECTING NEED FOR INSURANCE COVERING INSOLVENCY OR FAILURE OF FUTURES COMMISSION MERCHANTS; REPORT AND RECOMMENDATIONS BY JUNE 30, 1976

Section 417 of Pub. L. 93–463 provided that: "The Commodity Futures Trading Commission shall submit to the Congress, not later than June 30, 1976, a report respecting the need for legislation insuring owners of commodity futures accounts and persons handling or clearing trades in such accounts against loss by reason of the insolvency or financial failure of a futures commission merchant carrying such accounts. The report shall contain the recommendations of the Commission concerning the form and nature of any such legislation."

PROVISIONAL DESIGNATION OF CONTRACT MARKETS; PROVISIONAL REGISTRATION OF FUTURES COMMISSION MERCHANTS, FLOOR BROKERS, ASSOCIATED PERSONS, COMMODITY TRADING ADVISORS, AND COMMODITY POOL OPERATORS; EXTENSION OF EFFECTIVE DATES

Pub. L. 94–16, § 1, Apr. 16, 1975, 89 Stat. 77, provided: "That notwithstanding any other provision of law or of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.) [this chapter], the Commodity Futures Trading Commission established in section 2(a) of the Commodity Exchange Act, as amended [this section], in its discretion, and without prior notice of hearings:

"(a) may grant provisional designation as a contract market to any boards of trade for any commodities traded thereon for such period not in excess of ninety days from the effective date of the Commodity Futures Trading Commission Act of 1974 [see Effective Date of 1974 Amendment note under section 2 of this title] and under such terms and conditions as the Commission may prescribe: *Provided*, That upon the expiration of any provisional designation of a board of trade as a contract market, such board of trade shall not be designated as a contract market except as provided in section 6 of the Commodity Exchange Act, as amended [section 8 et seq. of this title];

"(b) may grant provisional registration as a futures commission merchant, floor broker, associated person, commodity trading adviser, and commodity pool operator to any person for such period not in excess of ninety days from the effective date of the Commodity Futures Trading Commission Act of 1974 (Public Law 93–463) [see Effective Date of 1974 Amendment note under section 2 of this title] and under such terms and conditions as the Commission may prescribe; and

"(c) may defer for such period not in excess of ninety days from the effective date of the Act [see Effective Date of 1974 Amendment note under section 2 of this title], the effective dates of sections 204, 205, 210, and 407 of the Commodity Futures Trading Commission Act of 1974 (Public Law 93–463) [enacting sections 6k, 6*l*, 6m, 6n, 6o, and 7a(12) and amending sections 7a(8), 9, and 12a(1) of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2 of this title.

§ 6. Prohibition against dealings in commodity futures; exceptions.

It shall be unlawful for any person to deliver for transmission through the mails or in interstate commerce by telegraph, telephone, wireless, or other means of communication any offer to make or execute, or any confirmation of the execution of, or any quotation or report of the price of, any contract of sale of commodity for future delivery on or subject to the rules of any board of trade in the United States, or for any person to make or execute such contract of sale, which is or may be used for (a) hedging any transaction in interstate commerce in commodity or the products or by-products thereof, or (b) determining the price basis of any such transaction in interstate commerce, or (c) delivering commodity sold, shipped, or received in interstate commerce for the fulfillment thereof, except, in any of the foregoing cases, where such contract is made by or through a member of a board of trade which has been designated by the Commission as a "contract market," as hereinafter provided in this chapter, and if such contract is evidenced by a record in writing which shows the date, the parties to such contract and their addresses, the property covered and its price, and the terms of delivery: *Provided*, That each board member shall keep such record for a period of three years from the date thereof, or for a longer period if the Commission shall so direct, which record shall at all times be open to the inspection of any representative of the Commission or the United States Department of Justice. (As amended Oct. 23, 1974, Pub. L. 93–463, title I, § 103(a), (f), 88 Stat. 1390, 1392.)

AMENDMENTS

1974—Pub. L. 93–463 substituted "Commission" for "Secretary of Agriculture" and "United States Department of Agriculture".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13 of this title.

§ 6a. Excessive speculation as burden on interstate commerce; trading or position limits; control; hedging transactions; application of section.

(1) Excessive speculation in any commodity under contracts of sale of such commodity for future delivery made on or subject to the rules of contract markets causing sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity, is an undue and unnecessary burden on interstate commerce in such commodity. For the purpose of diminishing, eliminating, or preventing such burden, the commission shall, from time to time, after due notice and opportunity for hearing, by order, proclaim and fix such limits on the amounts of trading which may be done or positions which may be held by any person under contracts of sale of such commodity for future delivery on or

subject to the rules of any contract market as the commission finds are necessary to diminish, eliminate, or prevent such burden. In determining whether any person has exceeded such limits, the positions held and trading done by any persons directly or indirectly controlled by such person shall be included with the positions held and trading done by such person; and further, such limits upon positions and trading shall apply to positions held by, and trading done by, two or more persons acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by, or the trading were done by, a single person. Nothing in this section shall be construed to prohibit the commission from fixing different trading or position limits for different commodities, markets, futures, or delivery months, or different trading limits for buying and selling operations, or different limits for the purposes of paragraphs (2) (A) and (B) of this section, or from exempting transactions normally known to the trade as "spreads" or "straddles" or "arbitrage" or from fixing limits applying to such transactions or positions different from limits fixed for other transactions or positions. The word "arbitrage" in domestic markets shall be defined to mean the same as "spread" or "straddle". The Commission is authorized to define the term "international arbitrage".

* * * * *

(3) No order issued under paragraph (1) of this section shall apply to transactions or positions which are shown to be bona fide hedging transactions or positions as such terms shall be defined by the Commission within one hundred and eighty days after the effective date of the Commodity Futures Trading Commission Act of 1974 by order consistent with the purposes of this chapter.

* * * * *

(As amended Oct. 23, 1974, Pub. L. 93–463, title IV, §§ 403, 404, 88 Stat. 1413; Apr. 16, 1975, Pub. L. 94–16, § 4, 89 Stat. 78.)

REFERENCES IN TEXT

For provisions setting the effective date of the Commodity Futures Trading Commisison Act of 1974, referred to in par. (3), as the 180th day after Oct. 23, 1974, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

AMENDMENTS

1975—Par. (3). Pub. L. 94–16 substituted "one hundred and eighty days" for "ninety days".

1974—Par. (1). Pub. L. 93–463, § 403, inserted "or 'arbitrage'" following "or 'straddles'", added definition of "arbitrage", and authorized the Commission to define "international arbitrage".

Par. (3). Pub. L. 93–463, § 404, directed the Commission to define "bona fide hedging transactions or positions" within 90 days after the effective date of the Commodity Futures Trading Commission Act of 1974 and struck out provisions which had spelled out the factors to be taken into account in determining whether a hedging transaction or position was a bona fide transaction or position.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 404 of Pub. L. 93–463 directed in part that the provisions of section 404 of Pub. L. 93–463 calling for the deletion of that part of par. (3) of this section which enumerated the factors to be taken into consideration in determining whether a hedging transaction or position was a bona fide transaction or position, was effective immediately upon the enactment of Pub. L. 93–463. Pub. L. 93–463 was approved on Oct. 23, 1974.

Amendment of par. (1) and that part of par. (3) of this section by sections 403 and 404 of Pub. L. 93–463 directing the Commission to define "bona fide hedging transactions or positions" effective so as to allow implementation of all changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

REGULATIONS DEFINING BONA FIDE HEDGING TRANSACTIONS AND POSITIONS

Section 404 of Pub. L. 93–463 provided in part: That notwithstanding any other provision of law, the Secretary of Agriculture, immediately upon the enactment of the Commodity Futures Trading Commission Act of 1974 [which was approved on Oct. 23, 1974], is authorized and directed to promulgate regulations defining bona fide hedging transactions and positions: *And provided further,* That until the Secretary issues such regulations defining bona fide hedging transactions and positions and such regulations are in full force and effect, such terms shall continue to be defined as set forth in the Commodity Exchange Act [par. (3) of this section] prior to its amendment by the Commodity Futures Trading Commission Act of 1974 [Pub. L. 93–463]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13 of this title.

§ 6b. Contracts designed to defend or mislead; bucketing orders; buying and selling orders for commodities.

It shall be unlawful (1) for any member of a contract market, or for any correspondent, agent, or employee of any member, in or in connection with any order to make, or the making of, any contract of sale of any commodity in interstate commerce, made, or to be made, on or subject to the rules of any contract market, for on behalf of any other person, or (2) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery made, or to be made, on or subject to the rules of any contract market, for or on behalf of any other person if such contract for future delivery is or may be used for (a) hedging any transaction in interstate commerce in such commodity or the products or byproducts thereof, or (b) determining the price basis of any transaction in interstate commerce in such commodity, or (c) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment thereof—

* * * * *

Nothing in this section or in any other section of this chapter shall be construed to prevent a futures commission merchant or floor broker who shall have in hand, simultaneously, buying and selling orders at the market for different principals for a like quantity of a commodity for future delivery in the same month executing such buying and selling orders at the market price: *Provided,* That any such execution shall take place on the floor of the exchange where such orders are to be executed at public outcry across the ring and shall be duly reported, recorded, and cleared in the same manner as other orders executed on such exchange: *And provided further,* That such transactions shall be made in accordance with such rules and regulations as the Commission may promulgate regarding the manner of the execu-

tion of such transactions. (As amended Oct. 23, 1974, Pub. L. 93–463, title IV, § 405, 88 Stat. 1413.)

AMENDMENTS

1974—Pub. L. 93–463 substituted "a commodity" for "cotton" in the provisions following par. (D) and added requirement that execution of buying and selling orders for commodities held simultaneously by the same merchant or broker be carried out in accordance with such rules and regulations as the Commission may promulgate regarding the manner of the execution of such transactions.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13 of this title.

§ 6c. Wash sales; cross trades; fictitious sales; privileges; offers; puts; calls; guaranties.

(a) It shall be unlawful for any person to offer to enter into, enter into, or confirm the execution of, any transaction involving any commodity, which is or may be used for (1) hedging any transaction in interstate commerce in such commodity or the products or byproducts thereof, or (2) determining the price basis of any such transaction in interstate commerce in such commodity, or (3) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment thereof—

(A) if such transaction is, is of the character of, or is commonly known to the trade as, a "wash sale," "cross trade," or "accommodation trade," or is a fictitious sale;

(B) if such transaction involves any commodity specifically set forth in section 2 of this title, prior to the enactment of the Commodity Futures Trading Commission Act of 1974, and if such transaction is of the character of, or is commonly known to the trade as, "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty", or

(C) if such transaction is used to cause any price to be reported, registered, or recorded which is not a true and bona fide price.

Nothing in this section shall be construed to prevent the exchange of futures in connection with cash commodity transactions or of futures for cash commodities, or of transfer trades or office trades if made in accordance with board of trade rules applying to such transactions and such rules shall not have been disapproved by the Commission.

(b) No person shall offer to enter into, enter into, or confirm the execution of, any transaction subject to the provisions of subsection (a) of this section involving any commodity regulated under this chapter, but not specifically set forth in section 2 of this title, prior to the enactment of the Commodity Futures Trading Commission Act of 1974, which is of the character of, or is commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty", contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe within one year after the effective date of the Commodity Futures Trading Commission Act of 1974 unless the Commission determines and notifies the Senate Committee on Agriculture and Forestry and the House Committee on Agriculture that it is unable to prescribe such terms and conditions within such period of time: *Provided*, That any such order, rule, or regulation may be made only after notice and opportunity for hearing: *And provided further*, That the Commission may set different terms and conditions for different markets. (As amended Oct. 23, 1974, Pub. L. 93–463, title I, § 103(a), title IV, § 402, 88 Stat. 1392, 1412.)

REFERENCES IN TEXT

The Commodity Futures Trading Commission Act of 1974, referred to in subsecs. (a)(B) and (b), is Pub. L. 93–463, which generally amended this chapter and which was approved Oct. 23, 1974.

For provisions setting the effective date of the Commodity Futures Trading Commission Act of 1974, referred to in subsec. (b), as the 180th day after Oct. 23, 1974, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–463, §§ 103(a), 402(a), (b), (d), designated existing provisions as subsec. (a), in par. (B) of subsec. (a) as so designated inserted "if such transaction involves any commodity specifically set forth in section 2 of this title, prior to the enactment of the Commodity Futures Trading Commission Act of 1974, and" and "option", and in the provisions following par. (C), struck out provisions prohibiting a construction of this section or section 6b of this title which would impair any State law applicable to any transaction enumerated or described in this section or section 6b of this title and substituted "Commission" for "Secretary of Agriculture".

Subsec. (b). Pub. L. 93–463, § 402(c), added subsec. (b).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13 of this title.

§ 6d. Futures commission merchants, dealing by unregistered merchants prohibited moneys and securities of customers, care and use.

It shall be unlawful for any person to engage as futures commission merchant in soliciting orders or accepting orders for the purchase or sale of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market unless—

(1) such person shall have registered, under this chapter, with the Commission as such futures commission merchant and such registration shall not have expired nor been suspended nor revoked; and

(2) such person shall, whether a member or nonmember of a contract market, treat and deal with all money, securities, and property received by such person to margin, guarantee, or secure the trades or contracts of any customer of such

person, or accruing to such customer as the result of such trades or contracts, as belonging to such customer. Such money, securities, and property shall be separately accounted for and shall not be commingled with the funds of such commission merchant or be used to margin or guarantee the trades or contracts, or to secure or extend the credit, of any customer or person other than the one for whom the same are held: *Provided, however,* That such money, securities, and property of the customers of such futures commission merchant may, for convenience, be commingled and deposited in the same account or accounts with any bank or trust company or with the clearing house organization of such contract market, and that such share thereof as in the normal course of business shall be necessary to margin, guarantee, secure, transfer, adjust, or settle the contracts or trades of such customers, or resulting market positions, with the clearing-house organization of such contract market or with any member of such contract market, may be withdrawn and applied to such purposes, including the payment of commissions, brokerage, interest, taxes, storage, and other charges, lawfully accruing in connection with such contracts and trades: *Provided further,* That such money may be invested in obligations of the United States, in general obligations of any State or of any political subdivision thereof, and in obligations fully guaranteed as to principal and interest by the United States, such investments to be made in accordance with such rules and regulations and subject to such conditions as the Commission may prescribe.

It shall be unlawful for any person, including but not limited to any clearing agency of a contract market and any depository, that has received any money, securities, or property for deposit in a separate account as provided in paragraph (2) of this section, to hold, dispose of, or use any such money, securities, or property as belonging to the depositing futures commission merchant or any person other than the customers of such futures commission merchant. (As amended Oct. 23, 1974, Pub. L. 93–463, title I, § 103(a), 88 Stat. 1392.)

AMENDMENTS

1974—Pub. L. 93–463 substituted "Commission" for "Secretary of Agriculture" in pars. (1) and (2).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13, 18 of this title.

§ 6e. Floor brokers; dealings by unregistered broker prohibited.

It shall be unlawful for any person to act as floor broker in executing any orders for the purchase or sale of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market unless such person shall have registered, under this chapter, with the Commission as such floor broker and such registration shall not have expired nor been suspended nor revoked. (As amended Oct. 23, 1974, Pub. L. 93–463, title I, § 103(a), 88 Stat. 1392.)

AMENDMENTS

1974—Pub. L. 93–463 substituted "Commission" for "Secretary of Agriculture".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13, 18 of this title.

§ 6f. Registration of commission merchants and brokers; financial requirements of futures commission merchants.

(1) Any person desiring to register as futures commission merchant or as floor broker under this section shall be registered upon application to the Commission, which application shall be made in form and manner to be prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the business in which the applicant is or will be engaged, including, in the case of applications of futures commission merchants, the names and addresses of the managers of all branch offices and of all correspondents and agents engaged in soliciting or accepting on behalf of such applicant any orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any board of trade, and including also the names of its officers and partners, if a partnership, and of its officers, directors, and stockholders, as the Commission may direct, if a corporation. Such person, when registered under this section, shall likewise continue to report and furnish to the Commission the abovementioned information and such other information pertaining to his business as the Commission may require. All registrations shall expire on the 31st day of December of the year for which issued, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked after notice and hearing as prescribed in this chapter.

(2) Notwithstanding any other provisions of this chapter, no person desiring to register as futures commission merchant shall be so registered unless he meets such minimum financial requirements as the Commission may by regulation prescribe as necessary to insure his meeting his obligation as a registrant, and each person so registered shall at all times continue to meet such prescribed minimum financial requirements: *Provided,* That such minimum financial requirements will be considered met if the applicant for registration or registrant is a member of a contract market and conforms to minimum financial standards and related reporting requirements

set by such contract market in its bylaws, rules, regulations, or resolutions and approved by the Commission as adequate to effectuate the purposes of this paragraph (2). (As amended Oct. 23, 1974, Pub. L. 93–463, title I, § 103(a), 88 Stat. 1392.)

AMENDMENTS

1974—Pub. L. 93–463 substituted "Commission" for "Secretary of Agriculture".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

PROVISIONAL REGISTRATION OF FUTURES COMMISSION MERCHANTS AND FLOOR BROKERS

Grant of provisional registration of futures commission merchants and floor brokers for up to 90-days from effective date of Pub. L. 93–463, see section 1(b) of Pub. L. 94–16, Apr. 16, 1975, 89 Stat. 77, set out as a note under section 4a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 12a of this title.

§ 6g. Reporting and recordkeeping.

(1) Every person registered hereunder as futures commission merchant or floor broker shall make such reports as are required by the Commission regarding the transactions and positions of such person, and the transactions and positions of the customer thereof, in commodities for future delivery on any board of trade in the United States or elsewhere; shall keep books and records pertaining to such transactions and positions in such form and manner and for such period as may be required by the Commission; and shall keep such books and records open to inspection by any representative of the Commission or the United States Department of Justice.

(2) Every clearinghouse and contract market shall maintain daily trading records. The daily trading records shall include such information as the Commission shall prescribe by rule.

(3) Brokers and futures commission merchants shall maintain daily trading records for each customer in such manner and form as to be identifiable with the trades referred to in subsection (2) of this section.

(4) Daily trading records shall be maintained in a form suitable to the Commission for such period as may be required by the Commission. Reports shall be made from the records maintained at such times and at such places and in such form as the Commission may prescribe by rule, order, or regulation in order to protect the public interest and the interest of persons trading in commodity futures.

(5) Before the beginning of trading each day, the exchange shall, insofar as is practicable and under terms and conditions specified by the Commission, make public the volume of trading on each type of contract for the previous day and such other information as the Commission deems necessary in the public interest and prescribes by rule, order, or regulation.

(6) Nothing contained in this section shall be construed to prohibit the Commission from making separate determinations for different clearinghouses, contract markets, and exchanges when such determinations are warranted in the judgment of the Commission. (As amended Oct. 23, 1974, Pub. L. 93–463, title I, § 103, (a), (f), title IV, § 415, 88 Stat. 1392, 1415.)

AMENDMENTS

1974—Par. (1). Pub. L. 93–463, §§ 103 (a), (f), 415, designated existing provisions as par. (1) and in par. (1) as so designated substituted "Commission" for "Secretary of Agriculture" and "United States Department of Agriculture".

Pars. (2)–(6). Pub. L. 93–463, § 415, added pars. (2) to (6).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

§ 6i. Reports of deals equal to or in excess of trading limits; books and records; cash and controlled transactions.

It shall be unlawful for any person to make any contract for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market unless such person shall report or cause to be reported to the properly designated officer in accordance with the rules and regulations of the Commission (1) whenever such person shall directly or indirectly make such contracts with respect to any commodity, or any future of such commodity, during any one day in an amount equal to or in excess of such amount as shall be fixed from time to time by the Commission; and (2) whenever such person shall directly or indirectly have or obtain a long or short position in any commodity or in any future of such commodity, equal to or in excess of such amount as shall be fixed from time to time by the Commission. Such person shall keep books and records of all futures transactions and positions coming within the provisions of (1) and (2) hereof, and shall keep books and records of such cash or spot transactions in such commodity entered into, and inventories and purchase and sale commitments of such commodity held, in any month in which such person is required to make any report under the provisions of (1) or (2), as the Commission may require. Such books and records shall show complete details concerning all such transactions, positions, inventories, and commitments, including the names and addresses, of all persons having any interest therein, and shall be open at all times to inspection by any representative of the Commission or the United States Department of Justice. For the purposes of this section, the futures and cash or spot transactions and positions of any person shall include such transactions and positions of any persons directly or indirectly controlled by such person. (As amended Oct. 23, 1974, Pub. L. 93–463, title I, § 103, (a), (f) 88 Stat. 1392.)

AMENDMENTS

1974—Pub. L. 93–463 substituted "Commission" for "Secretary of Agriculture" and "United States Department of Agriculture".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes affected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13 of this title.

§ 6j. Trades and executions by floor brokers; trades by futures commission merchants.

(1) The Commission within nine months after the effective date of the Commodity Futures Trading Commission Act of 1974, and subsequently when it determines that changes are required, make a determination, after notice and opportunity for hearing, whether or not a floor broker may trade for his own account or any account in which such broker has trading discretion, and also execute a customer's order for future delivery and, if the Commission determines that such trades and such executions shall be permitted, the Commission shall further determine the terms, conditions, and circumstances under which such trades and such executions shall be conducted: *Provided,* That any such determination shall, at a minimum, take into account the effect upon the liquidity of trading of each market: *And provided further,* That nothing herein shall be construed to prohibit the Commission from making separate determinations for different contract markets when such are warranted in the judgment of the Commission, or to prohibit contract markets from setting terms and conditions more restrictive than those set by the Commission.

(2) The Commission shall within nine months after the effective date of the Commodity Futures Trading Commission Act of 1974, and subsequently when it determines that changes are required, make a determination, after notice and opportunity for hearing, whether or not a futures commission merchant may trade for its own account or any proprietary account, as defined by the Commission, and if the Commission determines that such trades shall be permitted, the Commission shall further determine the terms, conditions, and circumstances under which such trades shall be conducted: *Provided,* That any such determination, at a minimum, shall take into account the effect upon the liquidity of trading of each market: *And provided further,* That nothing herein shall be construed to prohibit the Commission from making separate determinations for different contract markets when such are warranted in the judgment of the Commission, or to prohibit contract markets from setting terms and conditions more restrictive than those set by the Commission. (Sept. 21, 1922, ch. 369, § 4j, as added Oct. 23, 1974, Pub. L. 93–463, title II, § 203, 88 Stat. 1396, and amended Apr. 16, 1975, Pub. L. 94–16, § 2, 89 Stat. 77.)

REFERENCES IN TEXT

The Commodity Futures Trading Commission Act of 1974, referred in text, is Pub. L. 93–463, which enacted this section. For the effective date of the Act, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

AMENDMENTS

1975—Pub. L. 94–16 substituted "nine months" for "six months" in pars. (1) and (2).

EFFECTIVE DATE

Section effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this section to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 18 of this title.

§ 6k. Registration of associates of futures commission merchants.

(1) It shall be unlawful for any person to be associated with any futures commission merchant or with any agent of a futures commission merchant as a partner, officer, or employee (or any person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation or acceptance of customers' orders (other than in a clerical capacity) or (ii) the supervision of any person or persons so engaged, unless such person shall have registered, under this chapter, with the Commission and such registration shall not have expired nor been suspended (and the period of suspension has not expired) or revoked, and it shall be unlawful for any futures commission merchant or any agent of a futures commission merchant to permit such a person to become or remain associated with him in any such capacity if such futures commission merchant or agent knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired) or revoked: *Provided,* That any individual who is registered as a floor broker or futures commission merchant (and such registration is not suspended or revoked) need not also register under these provisions.

(2) Any such person desiring to be registered shall make application to the Commission in the form and manner prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the applicant. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission such information as the Commission may require. Such registration shall expire two years after the effective date thereof, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked after notice and hearing as prescribed in section 9 of this title: *Provided,* That upon initial registration, the effective period of such registration shall be set by the Commission, not to exceed two years from the effective date thereof and not to be less than one year from the effective date thereof. (Sept. 21, 1922, ch. 369, § 4k, as added Oct. 23, 1974, Pub. L. 93–463, title II, § 204(a), 88 Stat. 1396.)

EFFECTIVE DATE

Section effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this section to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

DEFERMENT OF EFFECTIVE DATE

Commodity Futures Trading Commission authorized to defer effective date of section for up to 90-days from effective date of Pub. L. 93–463, see section 1(c) of Pub. L. 94–16, Apr. 16, 1975, 89 Stat. 77, set out as a note under section 4a of this title.

PROVISIONAL REGISTRATION OF ASSOCIATED PERSONS

Grant of provisional registration of associated persons for up to 90-days from effective date of Pub. L. 93–463, see section 1(b) of Pub. L. 94–16, Apr. 16, 1975, 89 Stat. 77, set out as a note under section 4a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12a, 13, 21 of this title.

§ 6*l*. Commodity trading advisors and commodity pool operators; Congressional finding.

It is hereby found that the activities of commodity trading advisors and commodity pool operators are affected with a national public interest in that, among other things—

(1) their advice, counsel, publications, writings, analyses, and reports are furnished and distributed, and their contracts, solicitations, subscriptions, agreements, and other arrangements with clients take place and are negotiated and performed by the use of the mails and other means and instrumentalities of interestate commerce;

(2) their advice, counsel, publications, writings, analyses, and reports customarily relate to and their operations are directed toward and cause the purchase and sale of commodities for future delivery on or subject to the rules of contract markets; and

(3) the foregoing transactions occur in such volume as to affect substantially transactions on contract markets.

(Sept. 21, 1922; ch. 369, § 4*l*, as added Oct. 23, 1974, Pub. L. 93–463, title II, § 205 (a), 88 Stat. 1397.)

EFFECTIVE DATE

Section effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this section to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

DEFERMENT OF EFFECTIVE DATE

Commodity Futures Trading Commission authorized to defer effective dates of sections for up to 90-days from effective date of Pub. L. 93–463, see section 1(c) of Pub. L. 94–16, Apr. 16, 1975, 89 Stat. 77, set out as a note under section 4a of this title.

§ 6m. Same; use of mails or other means or instrumentalities of interstate commerce.

It shall be unlawful for any commodity trading advisor or commodity pool operator, unless registered under this chapter, to make use of the mails or any means or instrumentality of interstate commerce in connection with his business as such commodity trading advisor or commodity pool operator: *Provided*, That the provisions of this section shall not apply to any commodity trading advisor who, during the course of the preceding twelve months, has not furnished commodity trading advice to more than fifteen persons and who does not hold himself out generally to the public as a commodity trading advisor. (Sept. 21, 1922, ch. 369, § 4m, as added Oct. 23, 1974, Pub. L. 93–463, title II, § 205(a), 88 Stat. 1398.)

EFFECTIVE DATE

Section effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this section to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

DEFERMENT OF EFFECTIVE DATE

Commodity Futures Trading Commission authorized to defer effective dates of sections for up to 90-days from effective date of Pub. L. 93–463, see section 1(c) of Pub. L. 94–16, Apr. 16, 1975, 89 Stat. 77, set out as a note under section 4a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13, 18 of this title.

§ 6n. Same; registration; application; expiration and renewal; record keeping and reports; disclosure; statements of account; denial of registration; revocation or suspension.

(1) Any commodity trading advisor or commodity pool operator, or any person who contemplates becoming a commodity trading advisor or commodity pool operator, may register under this chapter by filing an application with the Commission. Such application shall contain such information, in such form and detail, as the Commission may, by rules and regulations, prescribe as necessary or appropriate in the public interest, including the following:

(A) the name and form of organization, including capital structure, under which the applicant engages or intends to engage in business; the name of the State under the laws of which he is organized; the location of his principal business office and branch offices, if any; the names and addresses of all partners, officers, directors, and persons performing similar functions or, if the applicant be an individual, of such individual; and the number of employees;

(B) the education, the business affiliations for the past ten years, and the present business affiliations of the applicant and of his partners, officers, directors, and persons performing similar functions and of any controlling person thereof;

(C) the nature of the business of the applicant, including the manner of giving advice and rendering of analyses or reports;

(D) the nature and scope of the authority of the applicant with respect to clients' funds and accounts;

(E) the basis upon which the applicant is or will be compensated; and

(F) such other information as the Commission may require to determine whether the applicant is qualified for registration.

(2) Except as hereinafter provided, such registration shall become effective thirty days after the receipt of such application by the Commission, or within such shorter period of time as the Commission may determine.

(3) All registrations under this section shall expire on the 30th day of June of each year, and shall be renewed upon application therefor subject to the same requirements as in the case of an original application.

(4) (A) Every commodity trading advisor and commodity pool operator registered under this chapter shall maintain books and records and file such reports in such form and manner as may be prescribed by the Commission. All such books and records shall be kept for a period of at least three years, or longer if the Commission so directs, and shall be open to inspection by any representative of the Commission or the Department of Justice. Upon the request of the Commission, a registered commodity trading advisor or commodity pool operator shall furnish the name and address of each client, subscriber, or participant, and submit samples or copies of all reports, letters, circulars, memorandums, publications, writings, or other literature or advice distributed to clients, subscribers, or participants, or prospective clients, subscribers, or participants.

(B) Unless otherwise authorized by the Commission by rule or regulation, all commodity trading advisors and commodity pool operators shall make a full and complete disclosure to their subscribers, clients, or participants of all futures market positions taken or held by the individual principals of their organization.

(5) Every commodity pool operator shall regularly furnish statements of account to each participant in his operations. Such statements shall be in such form and manner as may be prescribed by the Commission and shall include complete information as to the current status of all trading accounts in which such participant has an interest.

(6) The Commission is authorized, without hearing, to deny registration to any person as a commodity trading advisor or commodity pool operator if such person is subject to an outstanding order under this chapter denying to such person trading privileges on any contract market, or suspending or revoking the registration of such person as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or suspending or expelling such person from membership on any contract market.

(7) The Commission after hearing may by order deny registration, revoke or suspend the registration of any commodity trading advisor or commodity pool operator if the Commission finds that such denial, revocation, or suspension is in the public interest and that—

(A) the operations of such person disrupt or tend to disrupt orderly marketing conditions, or cause or tend to cause sudden or unreasonable fluctuations or unwarranted changes in the prices of commodities;

(B) such commodity trading advisor or commodity pool operator, or any partner, officer, director, person performing similar function or controlling person thereof—

(i) has within ten years of the issuance of such order been convicted of any felony or misdemeanor involving the purchase or sale of any commodity or security, or arising out of any conduct or practice of such commodity trading advisor or commodity pool operator or affiliated person as a commodity trading advisor or commodity pool operator; or

(ii) at the time of the issuance of such order, is permanently or temporarily enjoined by order, judgment or decree of any court of competent jurisdiction from acting as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or as an affiliated person or employee of any of the foregoing, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of commodities or securities; or

(C) any partner, officer, or director of such commodity trading advisor or commodity pool operator, or any person performing a similar function or any controlling person thereof is subject to an outstanding order of the Commission denying trading privileges on any contract market to such person, or suspending or revoking the registration of such person as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or suspending or expelling such person from membership on any contract market.

(Sept. 21, 1922, ch. 369, § 4m, as added Oct. 23, 1974, Pub. L. 93–463, title II, § 205(a), 88 Stat. 1398.)

EFFECTIVE DATE

Section effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this section to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

DEFERMENT OF EFFECTIVE DATE

Commodity Futures Trading Commission authorized to defer effective date of section for up to 90-days from effective date of Pub. L. 93–463, see section 1(c) of Pub. L. 94–16, Apr. 16, 1975, 89 Stat. 77, set out as a note under section 4a of this title.

PROVISIONAL REGISTRATION OF COMMODITY TRADING ADVISORS AND COMMODITY POOL OPERATORS

Grant of provisional registration of commodity trading advisors and commodity pool operators for up to 90-days from effective date of Pub. L. 93–463, see section 1(b) of Pub. L. 94–16, Apr. 16, 1975, 89 Stat. 77, set out as a note under section 4a of this title.

§ 6o. Same; fraud; misrepresentation.

(1) It shall be unlawful for any commodity trading advisor or commodity pool operator registered under this chapter, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly—

(A) to employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant; or

(B) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.

(2) It shall be unlawful for any commodity trading advisor or commodity pool operator registered under this chapter to represent or imply in any manner whatsoever that he has been sponsored, recommended, or approved, or that his abilities or qualifications have in any respect been passed upon by the United States or any agency or officer thereof: *Provided,* That this section shall not be construed to prohibit a statement that a person is registered under this chapter as a commodity trading advisor or commodity pool operator, if such statement is true in fact and if the effect of such registration is not misrepresented. (Sept. 21, 1922, ch. 369, § 4o, as added Oct. 23, 1974, Pub. L. 93–463, title II, § 205(a), 88 Stat. 1399.)

EFFECTIVE DATE

Section effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this section to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

DEFERMENT OF EFFECTIVE DATE

Commodity Futures Trading Commission authorized to defer effective date of section for up to 90-days from effective date of Pub. L. 93–463, see section 1(c) of Pub. L. 94–16, Apr. 16, 1975, 89 Stat. 77, set out as a note under section 4a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13 of this title.

§ 6p. Standards and examinations.

The Commission may specify by rules and regulations appropriate standards with respect to training, experience, and such other qualifications as the Commission finds necessary or desirable to insure the fitness of futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers. In connection therewith, the Commission may prescribe by rules and regulations the adoption of written proficiency examinations to be given to applicants for registration as futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers, and the establishment of reasonable fees to be charged to such applicants to cover the administration of such examinations. The Commission may further prescribe by rules and regulations that, in lieu of examinations administered by the Commission, futures associations registered under section 21 of this title or contract markets may adopt written proficiency examinations to be given to applicants for registration as futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers, and charge reasonable fees to such applicants to cover the administration of such examinations. Notwithstanding any other provision of this section, the Commission may specify by rules and regulations such terms and conditions as it deems appropriate to protect the public interest wherein exception to any written proficiency examination shall be made with respect to individuals who have demonstrated, through training and experience, the degree of proficiency and skill necessary to protect the interests of the customers of futures commission merchants and floor brokers. (Sept. 21, 1922, ch. 369, § 4p, as added Oct. 23, 1974, Pub. L. 93–463, title II, § 206, 88 Stat. 1400.)

EFFECTIVE DATE

Section effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this section to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

§ 7. Designation of board of trade as "contract market"; conditions and requirements.

The Commission is hereby authorized and directed to designate any board of trade as a "contract market" when, and only when, such board of trade complies with and carries out the following conditions and requirements:

(a) When located at a terminal market where any cash commodity of the kind specified in the contracts of sale commodity for future delivery to be executed on such board is sold in sufficient volumes and under such conditions as fairly to reflect the general value of the commodity and the differences in value between the various grades of such commodity, and where there is available to such board of trade, official inspection service approved by the Secretary of Agriculture or the Commission for the purpose: *Provided,* That any board of trade not so located shall be designated as a "contract market" if such board of trade provides for the delivery of commodities on such contracts at a delivery point or points and upon terms and conditions approved by the Commission.

(b) When the governing board thereof provides for the making and filing by the board or any member thereof, as the Commission may direct, of reports in accordance with the rules and regulations, and in such manner and form and at such times as may be prescribed by the Commission, showing the details and terms of all transactions entered into by the board, or the members thereof, either in cash transactions or transactions for future delivery consummated on or subject to the rules of a board of trade, and when such governing board provides, in accordance with such rules and regulations, for the keeping of a record by the board or the members of the board of trade, as the Commission may direct, showing the details and terms of all cash and future transactions entered into by them, consummated on or subject to the rules of a board of trade, such record to be in permanent form, showing the parties to all such transactions, including the persons for whom made, any assignments or transfers thereof, with the parties thereto, and the manner in which said transactions are fulfilled, discharged, or terminated. Such record shall be required to be kept

for a period of three years from the date thereof, or for a longer period if the Commission shall so direct, and shall at all times be open to the inspection of any representative of the Commission or United States Department of Justice.

* * * * *

(g) When such board of trade demonstrates that transactions for future delivery in the commodity for which designation as a contract market is sought will not be contrary to the public interest. (As amended Oct. 23, 1974, Pub. L. 93–463, title I, § 103(a), (f), (g), title II, § 207, 88 Stat. 1392, 1400.)

AMENDMENTS

1974—Pub. L. 93–463, § 103(a), substituted "Commission" for "Secretary of Agriculture" in the introductory provisions preceding par. (a).

Par. (a). Pub. L. 93–463, § 103(a), (g), substituted "official inspection service approved by the Secretary of Agriculture or the Commission for the purpose" for "official inspection service approved by the Secretary of Agriculture for the purpose" and "Commission" for "Secretary of Agriculture".

Par. (b). Pub. L. 93–463, § 103(a), (f), substituted "Commission" for "Secretary of Agriculture" and "United States Department of Agriculture".

Par. (g). Pub. L. 93–463, § 207, added par. (g).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2, 8, 13a of this title.

§ 7a. Duties of contract markets.

Each contract market shall—

(1) By-laws, rules, etc.; furnishing copies to Commission.

Promptly furnish the Commission copies of all by-laws rules, regulations, and resolutions made or issued by it or by the governing board thereof or any committee, and of all changes and proposed changes therein;

(2) Access for inspection of books and records.

Keep all books, records, minutes, and journals of proceedings of such contract market, and its governing board, committees, subsidiaries, and affiliates in a manner that will clearly describe all matters discussed by such contract market, governing board, committees, subsidiaries and affiliates and reveal any action taken in such matters, and allow inspection at all times by any authorized representative of the Commission or United States Department of Justice of all such books, records, minutes, and journals of proceedings. Such books, records, minutes, and journals of proceedings shall be kept for a period of three years from the date thereof, or for a longer period if the Commission shall so direct;

(3) Books and records of warehouses; keeping and inspection.

Require the operators of warehouses in which or out of which any commodity is deliverable on any contract for future delivery made on or subject to the rules of such contract market, to make such reports, keep such records, and permit such warehouse visitation as the Commission may prescribe. Such books and records shall be required to be kept for a period of three years from the date thereof, or for a longer period if the Commission shall so direct, and such books, records, and warehouses shall be open at all times to inspection by any representative of the Commission or United States Department of Justice;

(4) Periods of delivery; provisions for.

When so directed by order of the Commission, provide for a period, after trading in contracts of sale of any commodity for future delivery in a delivery month has ceased, during which contracts of sale of such commodity for future delivery in such month may be satisfied by the delivery of the actual cash commodity. Whenever, after due notice and opportunity for hearing, the Commission finds that provision for such a period of delivery for any one or more commodities or markets would prevent or tend to prevent "squeezes" and market congestion endangering price stability, it shall, by order, require such period of delivery (which shall be not less than three nor more than ten business days) applicable to such commodities and markets as it finds will prevent or tend to prevent such "squeezes" and market congestion: *Provided, however,* That such order shall not apply to then existing contracts;

(5) Notice of date of intended delivery.

Require the party making delivery of any commodity on any contract of sale of such commodity for future delivery to furnish the party obligated under the contract to accept delivery, written notice of the date of delivery at least one business day prior to such date of delivery. Whenever, after due notice and opportunity for hearing, the Commission finds that the giving of longer notice of delivery is necessary to prevent or diminish unfair practices in trading in any one or more commodities or markets, it shall by order require such longer notice of delivery (which shall be not more than ten business days) applicable to such commodities and markets as it finds will prevent or diminish such unfair practices: *Provided, however,* That such order shall not apply to then existing contracts;

(6) United States standards; conformity of grades to.

Require that all contracts of sale of any commodity for future delivery on such contract market shall provide for the delivery thereunder of commodities of grades conforming to United States standards, if such standards shall have been officially promulgated and adopted by the Commission;

(7) Warehouse receipts as satisfaction of futures contract.

Require that receipts issued under the United States Warehouse Act shall be accepted in satisfaction of any futures contract, made on or subject to the rules of such contract market, without discrimination and notwithstanding that the warehouseman issuing such receipts is not also licensed as a warehouseman under the laws of any state or enjoys other or different privileges than under State law: *Provided, however,* That such receipts shall be

for the kind, quality, and quantity of commodity specified in such contract and that the warehouse in which the commodity is stored meets such reasonable requirements as may be imposed by such contract market on other warehouses as to location, accessibility, and suitability for warehousing and delivery purposes: *And provided further,* That this paragraph shall apply only to futures contracts for those commodities which may be delivered from a warehouse subject to the United States Warehouse Act;

(8) Enforcement of bylaws, etc., relating to trading requirements.

Enforce all bylaws, rules, regulations, and resolutions, made or issued by it or by the governing board thereof or any committee, which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relate to other trading requirements, and which have been approved by the Commission pursuant to paragraph (12) of this section: and revoke and not enforce any such bylaw, rule, regulation, or resolution, made, issued, or proposed by it or by the governing board thereof or any committee, which has been disapproved by the Commission;

(9) Enforcement of bylaws, etc., providing minimum financial standards and related reporting requirements.

Enforce all bylaws, rules, regulations, and resolutions made or issued by it or by the governing board thereof or by any committee, which provide minimum financial standards and related reporting requirements for futures commission merchants who are members of such contract market, and which have been approved by the Commission;

(10) Delivery points.

Permit the delivery of any commodity, on contracts of sale thereof for future delivery, of such grade or grades, at such point or points and at such quality and locational price differentials as will tend to prevent or diminish price manipulation, market congestion, or the abnormal movement of such commodity in interstate commerce. If the Commission after investigation finds that the rules and regulations adopted by a contract market permitting delivery of any commodity on contracts of sale thereof for future delivery, do not accomplish the objectives of this paragraph, then the Commission shall notify the contract market of its finding and afford the contract market an opportunity to make appropriate changes in such rules and regulations. If the contract market within seventy-five days of such notification fails to make the changes which in the opinion of the Commission are necessary to accomplish the objectives of this paragraph, then the Commission after granting the contract market an opportunity to be heard, may change or supplement such rules and regulations of the contract market to achieve the above objectives: *Provided,* That any order issued under this paragraph shall not apply to contracts of sale for future delivery in any months in which contracts are currently outstanding and open: *And provided further,* That no requirement for an additional delivery point or points shall be promulgated following hearings until the contract market affected has had notice and opportunity to file exceptions to the proposed order determining the location and number of such delivery point or points;

(11) Settlement of customers' claims and grievances.

Provide a fair and equitable procedure through arbitration or otherwise for the settlement of customers' claims and grievances against any member or employee thereof: *Provided,* That (i) the use of such procedure by a customer shall be voluntary, (ii) the procedure shall not be applicable to any claim in excess of $15,000, (iii) the procedure shall not result in any compulsory payment except as agreed upon between the parties, and (iv) the term "customer" as used in this paragraph shall not include a futures commission merchant or a floor broker; and

(12) Commission approval of bylaws, rules, regulations, and resolutions.

Except as otherwise provided in this paragraph, submit to the Commission for its approval all bylaws, rules, regulations, and resolutions made or issued by such contract market, or by the governing board thereof or any committee thereof which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relate to other trading requirements except those relating to the setting of levels of margin. The Commission shall approve, within thirty days of their receipt unless the Commission notifies the contract market of its inability to make such determination within such period of time, such bylaws, rules, regulations, and resolutions upon a determination that such bylaws, rules, regulations, and resolutions are not in violation of the provisions of this chapter or the regulations of the Commission and thereafter the Commission shall disapprove, after appropriate notice and opportunity for hearing, any bylaw, rule, regulation, or resolution which the Commission finds at any time is in violation of the provisions of this chapter or the regulations of the Commission. The Commission shall specify the terms and conditions under which a contract market may, in an emergency, as defined by the Commission, adopt a temporary rule dealing with trading requirements without prior Commission approval. In the event of such an emergency, as defined by the Commission, requiring immediate action, the contract market by a two-thirds vote of its governing board may place into immediate effect without prior Commission approval a temporary rule dealing with such emergency if it notifies the Commission of such action with a complete explanation of the emergency involved. The Commission may adopt a regulation exempting enumerated types of contract market operational and administrative rules from the requirement that they be submitted to the Commission for its approval. (As amended Oct. 23, 1974, Pub. L. 93–463, title I, § 103, (a), (e), (f), title II, §§ 208–210, title IV, §§ 406, 407, 88 Stat. 1392, 1400, 1401, 1413.)

REFERENCES IN TEXT

The United States Warehouse Act, referred to in par. (7), is classified to section 241 et seq. of this title.

AMENDMENTS

1974—Par. (1). Pub. L. 93–463, § 103(a), substituted "Commission" for "Secretary of Agriculture".

Par. (2). Pub. L. 93–463, § 103(a), (f), substituted "Commission" for "United States Department of Agriculture" and "Secretary of Agriculture".

Par. (3). Pub. L. 93–463, § 103(a), (f), substituted "Commission" for "Secretary of Agriculture" and "United States Department of Agriculture".

Par. (4). Pub. L. 93–463, § 103(a), (e), substituted "Commission" for "Secretary of Agriculture" and "it" for "he".

Par. (5). Pub. L. 93–463, § 103(a), (e), substituted "Commission" for "Secretary of Agriculture" and "it" for "he".

Par. (6). Pub. L. 93–463, § 406, inserted "and adopted by the Commission" following "officially promulgated".

Par. (7). Pub. L. 93–463, § 208(a), added ": And provided further, That this paragraph shall apply only to futures contracts for those commodities which may be delivered from a warehouse subject to the United States Warehouse Act".

Par. (8). Pub. L. 93–463, § 407, substituted "been approved by the Commission pursuant to paragraph (12) of this section" for "not been disapproved by the Secretary of Agriculture pursuant to paragraph (7) of section 12a of this title" and "has been disapproved by the Commission" for "has been so disapproved".

Par. (9). Pub. L. 93–463, § 103(a), substituted "Commission" for "Secretary of Agriculture".

Par. (10). Pub. L. 93–463, § 208(d), added par. (10).

Par. (11). Pub. L. 93–463, § 209, added par. (11).

Par. (12). Pub. L. 93–463, § 210, added par. (12).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

DEFERMENT OF EFFECTIVE DATE OF 1974 AMENDMENT

Commodity Futures Trading Commission authorized to defer effective date of par. (12) of this section and amendment of par. (8) of this section by section 407 of Pub. L. 93–463, for up to 90-days from effective date of Pub. L. 93–463, see section 1(c) of Pub. L. 94–16, Apr. 16, 1975, 87 Stat. 77, set out as a note under section 4a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7 of this title.

§ 7b. Suspension or revocation of designation as "contract market."

The failure or refusal of any board of trade to comply with any of the provisions of this chapter, or any of the rules, regulations, or orders of the Commission thereunder, shall be cause for suspending for a period not to exceed six months or revoking the designation of such board of trade as a "contract market" in accordance with the procedure and subject to the judicial review provided in section 8 of this title. (As amended Oct. 23, 1974, Pub. L. 93–463, title I, § 103(b), 88 Stat. 1392.)

AMENDMENTS

1974—Pub. L. 93–463 substituted "orders of the Commission" for "orders of the Secretary of Agriculture or the Commission".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

§ 8. Application for designation as "contract market"; suspension or revocation of designation; hearing; review by court of appeals.

Any board of trade desiring to be designated a "contract market" shall make application to the Commission for such designation and accompany the same with a showing that it complies with the conditions of section 7 of this title, and with a sufficient assurance that it will continue to comply with the requirements of such section 7. In the event of a refusal to designate as a "contract market" any board of trade that has made application therefor, such board of trade shall be afforded an opportunity for a hearing before the Commission, with the right to appeal an adverse decision after such hearing to the court of appeals as provided for in other cases in paragraph (a) of this section.

(a) The Commission is authorized to suspend for a period not to exceed six months or to revoke the designation of any board of trade as a "contract market" upon a showing that such board of trade is not enforcing or has not enforced its rules of government made a condition of its designation as set forth in section 7 of this title or that such board of trade, or any director, officer, agent, or employee thereof, otherwise is violating or has violated any of the provisions of this chapter or any of the rules, regulations, or orders of the Commission thereunder. Such suspension or revocation shall only be after a notice to the officers of the board of trade affected and upon a hearing: *Provided,* That such suspension or revocation shall be final and conclusive, unless within fifteen days after such suspension or revocation by the Commission such board of trade appeals to the court of appeals for the circuit in which it has its principal place of business, by filing with the clerk of such Court a written petition praying that the order of the Commission be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such board of trade will pay the costs of the proceedings if the court so directs. The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to the Commission and file in the court the record in such proceedings, as provided in section 2112 of Title 28. The testimony and evidence taken or submitted before the Commission, duly filed as aforesaid as a part of the record, shall be considered by the court of appeals as the evidence in the case. The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way. Such a court may affirm or set aside the order of the Commission or may direct it to modify its order. No such order of the Commission shall be modified or set aside by the court of appeals unless it is shown by the board of trade that the order is unsupported by the weight of the evidence or was issued without due notice and a reasonable opportunity having been afforded to such board of trade for a hearing, or infringes the Constitution

of the United States, or is beyond the jurisdiction of the Commission. (As amended Oct. 23, 1974, Pub. L. 93–463, title I, § 103(a)–(c), 88 Stat. 1392.)

AMENDMENTS

1974—Pub. L. 93–463, § 103(a), substituted "Commission" for "Secretary of Agriculture" in the first par.

Par. (a). Pub. L. 93–463, § 103(b), (c), substituted "orders of the Commission thereunder" for "orders of the Secretary of Agriculture or the Commission thereunder" and struck out "the Secretary of Agriculture, who shall thereupon notify the other members of" following "The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

PROVISIONAL DESIGNATION OF BOARDS OF TRADE AS CONTRACT MARKETS

Grant of provisional designation of boards of Trade as contract markets for up to 90-days from effective date of Pub. L. 93–463, see section 1(a) of Pub. L. 94–16, Apr. 16, 1975, 89 Stat. 77, set out as a note under section 4a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7b, 12, 13a of this title.

§ 9. Exclusion of persons from privilege of "contract markets"; procedure for exclusion; review by court of appeals.

If the Commission has reason to believe that any person (other than a contract market) is manipulating or attempting to manipulate or has manipulated or attempted to manipulate the market price of any commodity, in interstate commerce, or for future delivery on or subject to the rules of any contract market, or has willfully made any false or misleading statement of a material fact in any registration application or any report filed with the Commission under this chapter, or willfully omitted to state in any such application or report any material fact which is required to be stated therein, or otherwise is violating or has violated any of the provisions of this chapter or of the rules, regulations, or orders of the Commission thereunder, it may serve upon such person a complaint stating its charges in that respect, which complaint shall have attached or shall contain therein a notice of hearing, specifying a day and place not less than three days after the service thereof, requiring such person to show cause why an order should not be made prohibiting it from trading on or subject to the rules of any contract market, and directing that all contract markets refuse all trading privileges to such person, until further notice of the Commission, and to show cause why the registration of such person, if registered as futures commission merchant or any person associated therewith as described in section 6k of this title, commodity trading advisor, commodity pool operator, or as floor broker hereunder, should not be suspended or revoked. Said hearing may be held in Washington, District of Columbia, or elsewhere, before the Commission, or before an Administrative Law Judge designated by the Commission, which Administrative Law Judge shall cause all evidence to be reduced to writing and forthwith transmit the same to the Commission. Upon evidence received, the Commission may prohibit such person from trading on or subject to the rules of any contract market and require all contract markets to refuse such person all trading privileges thereon for such period as may be specified in the order, and, if such person is registered as futures commission merchant or any person associated therewith as described in section 6k of this title, commodity trading advisor, commodity pool operator, or as floor broker hereunder, may suspend, for a period not to exceed six months, or revoke, the registration of such person, and may assess such person a civil penalty of not more than $100,000 for each such violation. Notice of such order shall be sent forthwith by registered mail or by certified mail or delivered to the offending person and to the governing boards of said contract markets. After the issuance of the order by the Commission, the person against whom it is issued may obtain a review of such order or such other equitable relief as to the court may seem just by filing in the United States court of appeals of the circuit in which the petitioner is doing business a written petition, within fifteen days after the notice of such order is given to the offending person praying that the order of the Commission be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission and thereupon the Commission shall file in the court the record theretofore made, as provided in section 2112 of Title 28. Upon the filing of the petition the court shall have jurisdiction to affirm, to set aside, or modify the order of the Commission, and the findings of the Commission as to the facts, if supported by the weight of evidence, shall in like manner be conclusive. (As amended Oct. 23, 1974, Pub. L. 93–463, title I, § 103 (a), (b), (e), title II, §§ 204(b), 205(b), 212(a), (1), (2), title IV, § 408, 88 Stat. 1392, 1397, 1400, 1403, 1414.)

AMENDMENTS

1974—Pub. L. 93–463 substituted "Commission" for "Secretary of Agriculture" and "Secretary of Agriculture or the commission", substituted "it" for "he", inserted "or any person associated therewith as described in section 6k of this title," following "futures commission merchant" wherever appearing, inserted "commodity trading advisor, commodity pool operator" before "or as floor broker" wherever appearing, added provision for the assessment of civil penalties of not more than $100,000 for each violation, set a limit of fifteen days after the issuance of an order within which period the person against whom the order was issued must file with the court of appeals his petition that the order be set aside, and substituted "an Administrative Law Judge" and "Administrative Law Judge" for "a referee" and "referee", respectively.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

DEFERMENT OF EFFECTIVE DATE OF 1974 AMENDMENT

Commodity Futures Trading Commission authorized to defer effective date for the insertion into this section of references to commodity pool operators, commodity training advisors, and persons associated with futures commission merchants by sections 204(b) and 205(b) of Pub. L. 93–463 for up to 90-days from effective date of Pub. L. 93–463, see section 1(c) of Pub. L. 94–16, Apr. 16, 1975, 89 Stat. 77, set out as a note under section 4a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6k, 7, 9a, 12, 12a, 13b, 18, 21 of this title.

§ 9a. Assessment of money penalties.

In determining the amount of the money penalty assessed under section 9 of this title, the Commission shall consider, in the case of a person whose primary business involves the use of the commodity futures market—the appropriateness of such penalty to the size of the business of the person charged, the extent of such person's ability to continue in business, and the gravity of the violation; and in the case of a person whose primary business does not involve the use of the commodity futures market—the appropriateness of such penalty to the net worth of the person charged, and the gravity of the violation. If the offending person upon whom such penalty is imposed, after the lapse of the period allowed for appeal or after the affirmance of such penalty, shall fail to pay such penalty the Commission shall refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court. (Sept. 21, 1922, ch. 369, § 6(d), as added Oct. 23, 1974, Pub. L. 93–463, title II, § 212(a)(3), 88 Stat. 1403.)

EFFECTIVE DATE

Section effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this section to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

§ 11. Vacation on request of designation as "contract market"; redesignation.

Any board of trade that has been designated a contract market in the manner provided in this chapter may have such designation vacated and set aside by giving notice in writing to the Commission requesting that its designation as a contract market be vacated, which notice shall be served at least ninety days prior to the date named therein as the date when the vacation of designation shall take effect. Upon receipt of such notice the Commission shall forthwith order the vacation of the designation of such board of trade as a contract market, effective upon the day named in the notice, and shall forthwith send a copy of the notice and its order to all other contract markets. From and after the date upon which the vacation became effective the said board of trade can thereafter be designated again a contract market by making application to the Commission in the manner in this chapter provided for an original application. (As amended Oct. 23, 1974, Pub. L. 93–463, title I, § 103 (a), (e), 88 Stat. 1392.)

AMENDMENTS

1974—Pub. L. 93–463 substituted "Commission" for "Secretary of Agriculture", and "its order" for "his order".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

§ 12. Investigation and reports by Commission.

For the efficient execution of the provisions of this chapter, and in order to provide information for the use of Congress, the Commission may make such investigations as it may deem necessary to ascertain the facts regarding the operations of boards of trade and other persons subject to any of the provisions of this chapter, whether prior or subsequent to the enactment of this chapter, and may publish from time to time, in its discretion, the result of such investigation and such statistical information gathered therefrom as it may deem of interest to the public, except data and information which would separately disclose the business transactions of any person and trade secrets or names of customers: *Provided*, That nothing in this section shall be construed to prohibit the Commission from making or issuing such reports as it may deem necessary relative to the conduct of any board of trade or of the transactions of any person found guilty of violating the provisions of this chapter under the proceedings prescribed in sections 8, 9 and 15 of this title: *Provided further*, That the Commission in any report may include the facts as to any actual transaction. The Commission upon its own initiative or in cooperation with existing governmental agencies, shall investigate marketing conditions of commodity and commodity products and byproducts, including supply and demand for these commodities, cost to the consumer, and handling and transportation charges. It shall likewise compile and furnish to producers, consumers, and distributors, by means of regular or special reports, or by such methods as it may deem most effective, information respecting the commodity markets, together with information on supply, demand, prices, and other conditions in this and other countries that affect the markets. (As amended Oct. 23, 1974, Pub. L. 93–463, title I, § 103 (a), (e), 88 Stat. 1392.)

AMENDMENTS

1974—Pub. L. 93–463 substituted "Commission" for "Secretary of Agriculture", "it" for "he", "its" for "his", and "It" for "He".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12a, 12–1, 15, 20 of this title.

§ 12–1. Disclosure of names of traders on the commodity markets by Commission.

Notwithstanding the provisions of section 12 of this title or of any other law, the Commission may, in its discretion, from time to time disclose and make public the names and addresses of all traders on the boards of trade on the commodity markets with respect to whom the Commission has information, and any other information in the possession of the Commission relating to the amount of commodities purchased or sold by each such trader; and when requested by any committee of either House of Congress, acting within the scope of its jurisdiction, shall furnish to such committee and make public the names and addresses of all traders on such boards of trade with respect to whom the Commission has information, and any other information in the possession of the Commission relating to the amounts of commodities purchased or sold by each such trader; and when requested by any department or agency of the executive branch of the Government of the United States, acting within the scope of its jurisdiction, may, in its discretion, furnish to such department or agency any information in the possession of the Commission obtained in connection with the administration of this chapter: *Provided, however,* That information so furnished to any such department or agency shall not be disclosed by such department or agency except in any action or proceeding under the laws of the United States to which it, or the Commission, or the United States is a party. (As amended Oct. 23, 1974, Pub. L. 93–463, title I, § 103 (a), (e), (f), 88 Stat. 1392.)

AMENDMENT

1974—Pub. L. 93–463 substituted "Commission" for "Secretary of Agriculture", "Department of Agriculture", and "Secretary", and substituted "its" for "his".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20 of this title.

§ 12–2. Annual report to Congress.

The Commission shall submit to the Congress a written report within one hundred and twenty days after the end of each fiscal year detailing the operations of the Commission during such fiscal year. The Commission shall include in such report such information, data and recommendations for further legislation as it may deem advisable with respect to the administration of this chapter and its powers and functions under this chapter. (Sept. 21, 1922, ch. 369, § 8, 42 Stat. 1003, amended Oct. 23, 1974, Pub. L. 93–463, title I, § 105, 88 Stat. 1392.)

CODIFICATION

Section is third par. of section 8 of act Sept. 21, 1922. First and second pars. of section 8 are classified, respectively, to sections 12 and 12–1 of this title.

AMENDMENTS

1974—Pub. L. 93–463 added this section. See Codification note under this section.

EFFECTIVE DATE

Section effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this section to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20 of this title.

§ 12–3. Reviews and audits by Comptroller General.

The Comptroller General of the United States shall conduct reviews and audits of the Commission and make reports thereon. For the purpose of conducting such reviews and audits the Comptroller General shall be furnished such information regarding the powers, duties, organizations, transactions, operations, and activities of the Commission as he may require and he and his duly authorized representatives shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of the Commission except that in his reports the Comptroller General shall not include data and information which would separately disclose the business transactions of any person and trade secrets or names of customers, although such data shall be provided upon request by any committee of either House of Congress acting within the scope of its jurisdiction. (Sept. 21, 1922, ch. 369, § 8, 42 Stat. 1003, amended Oct. 23, 1974, Pub. L. 93–463, title I, § 105, 88 Stat. 1392.)

CODIFICATION

Section is fourth par. of section 8 of act Sept. 21, 1922. First, second, and third pars. of section 8 are classified, respectively, to sections 12, 12–1, and 12–2 of this title.

AMENDMENTS

1974—Pub. L. 93–463 added this section. See Codification note under this section.

EFFECTIVE DATE

Section effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this section to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20 of this title.

§ 12a. Registration of commission merchants and brokers; fees; rules and regulations; publication of harmful acts; disapproval of by laws, etc.

The Commission is authorized—

(1) to register futures commission merchants and persons associated therewith as described in section 6k of this title, commodity trading advisors, commodity pool operators and floor brokers upon application in accordance with rules and regulations and in form and manner to be prescribed by the Commission; and

* * * * *

(3) in accordance with the procedure provided for in section 9 of this title, to suspend or revoke the registration of any person registered under this chapter if cause exists under subparagraph

(2) (B) or (C) of this section which would warrant a refusal of registration of such person, and to suspend or revoke the registration of any futures commission merchant who shall knowingly accept any order for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market from any person if such person has been denied trading privileges on any contract market by order of the Commission under the provisions of section 9 of this title and the period of denial specified in such order shall not have expired; and

(4) to fix and establish from time to time reasonable fees and charges for registrations and renewals thereof; and

(5) to make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of this chapter;

(6) to communicate to the proper committee or officer of any contract market and to publish, notwithstanding the provisions of section 12 of this title, the full facts concerning any transaction or market operation, including the names of parties thereto, which in the judgment of the Commission disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers and consumers; and

(7) to alter or supplement the rules of a contract market insofar as necessary or appropriate by rule or regulation or by order, if after making the appropriate request in writing to a contract market that such contract market effect on its own behalf specified changes in its rules and practices, and after appropriate notice and opportunity for hearing, the Commission determines that such contract market has not made the changes so required, and that such changes are necessary or appropriate for the protection of persons producing, handling, processing, or consuming any commodity traded for future delivery on such contract market, or the product or by-product thereof, or for the protection of traders or to insure fair dealing in commodities traded for future delivery on such contract market. Such rules, regulations, or orders may specify changes with respect to such matters as:

(A) terms or conditions in contracts of sale to be executed on or subject to the rules of such contract market;

(B) the form or manner of execution of purchases and sales for future delivery;

(C) other trading requirements, excepting the setting of levels of margin;

(D) safeguards with respect to the financial responsibility of members;

(E) the manner, method, and place of soliciting business, including the content of such solicitations; and

(F) the form and manner of handling, recording, and accounting for customers' orders, transactions, and accounts; and

(8) to make and promulgate such rules and regulations with respect to those persons registered under this chapter, who are not members of a contract market, as in the judgment of the Commission are reasonably necessary to protect the public interest and promote just and equitable principles of trade, including but not limited to the manner, method, and place of soliciting business, including the content of such solicitation; and

(9) to direct the contract market whenever it has reason to believe that an emergency exists, to take such action as, in the Commission's judgment, is necessary to maintain or restore orderly trading in, or liquidation of, any futures contract. The term "emergency" as used herein shall mean, in addition to threatened or actual market manipulations and corners, any act of the United States or a foreign government affecting a commodity or any other major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for such commodity: *Provided,* That nothing herein shall be deemed to limit the meaning or interpretation given by a contract market to the terms "market emergency", "emergency", or equivalent language in its own bylaws, rules, regulations, or resolutions.

(As amended Oct. 23, 1974, Pub. L. 93–463, title I, § 103 (a), (b), (e), title II, §§ 204(c), 205(c), 213–215, 88 Stat. 1392, 1397, 1400, 1404.)

AMENDMENTS

1974—Pub. L. 93–463, § 103(a), substituted "Commission" for "Secretary of Agriculture" in the introductory provisions preceding par. (1).

Par. (1). Pub. L. 93–463, §§ 103(a), 204(c), 205(c), substituted "Commission" for "Secretary of Agriculture", inserted "and persons associated therewith as described in section 6k of this title," following "futures commission merchants", and inserted "commodity trading advisors, commodity pool operators" before "and floor brokers".

Par. (3). Pub. L. 93–463, § 103(a), substituted "Commission" for "Secretary of Agriculture".

Par. (5). Pub. L. 93–463, § 103(a), substituted "Commission" for "Secretary of Agriculture".

Par. (6). Pub. L. 93–463, § 103(a), substituted "Commission" for "Secretary of Agriculture".

Par. (7). Pub. L. 93–463, §§ 103 (b), (e), 213, substituted provisions covering the altering or supplementing of the rules of a contract market for provisions covering the disapproval of bylaws, rules, regulations, and resolutions made, issued, or proposed by a contract market and substituted "Commission" for "Secretary of Agriculture or the commission" and "it" for "he".

Par. (8). Pub. L. 93–463, § 214, added par. (8).

Par. (9). Pub. L. 93–463, § 215, added par. (9).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

DEFERMENT OF EFFECTIVE DATE OF 1974 AMENDMENT

Commodity Futures Trading Commission authorized to defer effective date for the insertion into par. (1) of this section of references to commodity pool operators, commodity trading advisors, and person associated with futures commission merchants by sections 204(c) and 205(c) of Pub. 93–463 for up to 90-days from effective date of Pub. L. 93–463, see section 1(c) of Pub. L. 94–16, Apr. 16, 1975, 89 Stat. 77, set out as a note under section 4a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7a, 20 of this title.

§ 12b. Trading ban violations; prohibition.

It shall be unlawful for any person, against whom there is outstanding any order of the Commission prohibiting him from trading on or subject to the rules of any contract market, to make or cause to be made in contravention of such order, any contract for future delivery of any commodity, on or subject to the rules of any contract market. (As amended Oct. 23, 1974, Pub. L. 93–463, title I, § 103(a), 88 Stat. 1392.)

AMENDMENTS

1974—Pub. L. 93–463 substituted "Commission" for "Secretary of Agriculture".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13 of this title.

§ 12c. Disciplinary actions; notice; review of action by Commission.

(1) (A) Any exchange or the Commission if the exchange fails to act, may suspend, expel, or otherwise discipline any person who is a member of that exchange, or deny any person access to the exchange. Any such action shall be taken solely in accordance with the rules of that exchange.

(B) Any suspension, expulsion, disciplinary, or access denial procedure established by an exchange rule shall provide for written notice to the Commission and to the person who is suspended, expelled, or disciplined, or denied access, within thirty days, which includes the reasons for the exchange action in the form and manner the Commission prescribes. Otherwise the notice and reasons shall be kept confidential.

(2) The Commission may, in its discretion and in accordance with such standards and procedures as it deems appropriate, review any decision by an exchange whereby a person is suspended, expelled, otherwise disciplined, or denied access to the exchange. In addition, the Commission may, in its discretion and upon application of any person who is adversely affected by any other exchange action, review such action.

(3) The Commission may affirm, modify, set aside, or remand any exchange decision it reviews pursuant to subsection (2) of this section, after a determination on the record whether the action of the exchange was in accordance with the policies of this chapter. Subject to judicial review, any order of the Commission entered pursuant to subsection (2) of this section shall govern the exchange in its further treatment of the matter.

(4) The Commission, in its discretion, may order a stay of any action taken pursuant to subsection (1) of this section pending review thereof. (Sept. 21, 1922, ch. 369, § 8c, as added Oct. 23, 1974, Pub. L. 93–463, title II, § 216, 88 Stat. 1405.)

EFFECTIVE DATE

Section effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this section to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

§ 13. Violations generally; punishment; costs of prosecution.

(a) Embezzlement, larceny, etc.; felony; value.

It shall be a felony punishable by a fine of not more than $100,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any futures commission merchant, or any employee or agent thereof, to embezzle, steal, purloin, or with criminal intent convert to his own use or the use of another, any money, securities, or property having a value in excess of $100, which was received by such commission merchant to margin, guarantee, or secure the trades or contracts of any customer of such commission merchant or accruing to such customer as the result of such trades or contracts. The word "value" as used in this paragraph means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.

(b) Price manipulation; cornering; postal or interstate dissemination of false or misleading informaton affecting price of commodity in interstate commerce; felony.

It shall be a felony punishable by a fine of not more than $100,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any person to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any contract market, or to corner or attempt to corner any such commodity, or knowingly to deliver or cause to be delivered for transmission through the mails or in interstate commerce by telegraph, telephone, wireless, or other means of communication false or misleading or knowingly inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce.

(c) Other violations; misdemeanors.

Except as provided in paragraphs (a) and (b) of this section, it shall be a misdemeanor punishable by a fine of not more than $100,000 or imprisonment for not more than one year, or both, together with the costs of prosecution, for any person to violate the provisions of sections 6 to 6e, 6h, 6i, 6k, 6m, 6o or 12b of this title, or to fail to evidence any contract mentioned in section 6 of this title by a record in writing as therein required.

(d) Transactions by Commissioners and Commission employees prohibited.

It shall be a felony punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any Commissioner of the Commission or any employee or agent thereof, to participate, directly or indirectly, in any transaction in com-

modity futures or any transaction of the character of or which is commonly known to the trade as an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty", or for any such person to participate, directly or indirectly, in any investment transaction in an actual commodity: *Provided*, That such prohibition against any investment transaction in an actual commodity shall not apply to a transaction in which such person buys an agricultural commodity or livestock for use in his own farming or ranching operations or sells an agricultural commodity which he has produced in connection with his own farming or ranching operations nor to any transaction in which he sells livestock which he has owned at least three months. With respect to such excepted transactions, the Commission shall require any Commissioner of the Commission or any employee or agent thereof who participates in any such transaction to notify the Commission thereof in accordance with such regulations as the Commission shall prescribe and the Commission shall make such information available to the public.

(e) Use of information by Commissioners and Commission employees prohibited.

It shall be a felony punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both, together with the costs of prosecution—(1) for any Commissioner of the Commission or any employee or agent thereof who, by virtue of his employment or position, acquires information which may affect or tend to affect the price of any commodity futures or commodity and which information has not been made public to impart such information with intent to assist another person, directly or indirectly, to participate in any transaction in commodity futures, any transaction in an actual commodity, or in any transaction of the character of or which is commonly known to the trade as an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty"; and (2) for any person to acquire such information from any Commissioner of the Commission or any employee or agent thereof and to use such information in any transaction in commodity futures, any transaction in an actual commodity, or in any transaction of the character of or which is commonly known to the trade as an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty". (As amended Oct. 23, 1974, Pub. L. 93–463, title II, § 212(d), title IV, §§ 401, 409, 88 Stat. 1404, 1412, 1414.)

AMENDMENTS

1974—Par. (a). Pub. L. 93–463, § 212(d)(1), substituted "$100,000" for "$10,000".

Par. (b). Pub. L. 93–463, § 212(d)(2), substituted "$100,000" for "$10,000".

Par. (c). Pub. L. 93–463, §§ 212(d)(3), 409, substituted "$100,000" for "$10,000" and inserted reference to sections 6k, 6m, and 6o of this title.

Subsec. (d), (e). Pub. L. 93–463, § 401, added subsecs. (d) and (e).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13b, 15a of this title.

§ 13–1. Violations, prohibition against dealings in onion futures; punishment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2 of this title.

§ 13a. Nonenforcement of rules of government or other violations; cease and desist orders; fines and penalties; imprisonment; misdemeanor; separate offenses.

If any contract market is not enforcing or has not enforced its rules of government made a condition of its designation as set forth in section 7 of this title, or if any contract market, or any director, officer, agent, or employee of any contract market otherwise is violating or has violated any of the provisions of this chapter or any of the rules, regulations, or orders of the Commission thereunder, the Commission may, upon notice and hearing and subject to appeal as in other cases provided for in paragraph (a) of section 8 of this title, make and enter an order directing that such contract market, director, officer, agent, or employee shall cease and desist from such violation, and assess a civil penalty of not more than $100,000 for each such violation. If such contract market, director, officer, agent, or employee, after the entry of such a cease and desist order and the lapse of the period allowed for appeal of such order or after the affirmance of such order, shall fail or refuse to obey or comply with such order, such contract market, director, officer, agent, or employee shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $100,000 or imprisoned for not less than six months nor more than one year, or both. Each day during which such failure or refusal to obey such cease and desist order continues shall be deemed a separate offense. If the offending contract market or other person upon whom such penalty is imposed, after the lapse of the period allowed for appeal or after the affirmance of such penalty, shall fail to pay such penalty, the Commission shall refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court. In determining the amount of the money penalty assessed under this section, the Commission shall consider the appropriateness of such penalty to the net worth of the offending person and the gravity of the offense, and in the case of a contract market shall further consider whether the amount of the penalty will materially impair the contract market's ability to carry on its operations and duties. (As amended Oct. 23, 1974, Pub. L. 93–463, title II, § 212(b), 88 Stat. 1403.)

AMENDMENTS

1974—Pub. L. 93–463 added provision for the assessment of a civil penalty of not more than $100,000 for each violation, substituted "not more than $100,000" for "not less than $500 nor more than $10,000" as the permissible range of fines imposed, added provisions for the enforcement of a penalty, and substituted "orders of the Com-

mission" for "orders of the Secretary of Agriculture or the commission".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

§ 13a–1. Action to enjoin or restrain violations; compliance; writs and orders; jurisdiction and venue; process.

Whenever it shall appear to the Commission that any contract market or other person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule, regulation, or order thereunder, or is restraining trading in any commodity for future delivery, the Commission may bring an action in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such act or practice, or to enforce compliance with this chapter, or any rule, regulation or order thereunder, and said courts shall have jurisdiction to entertain such actions: *Provided*, That no restraining order or injunction for violation of the provisions of this chapter shall be issued ex parte by said court. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond. Upon application of the Commission, the district courts of the United States and the United States courts of any territory or other place subject to the jurisdiction of the United States shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding any person to comply with the provisions of this chapter or any rule, regulation, or order of the Commission thereunder, including the requirement that such person take such action as is necessary to remove the danger of violation of this chapter or any such rule, regulation, or order: *Provided*, That no such writ of mandamus, or order affording like relief, shall be issued ex parte. Any action under this section may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or in the district where the act or practice occurred, is occurring, or is about to occur, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found. In lieu of bringing actions itself pursuant to this section, the Commission may request the Attorney General to bring the action. Where the Commission elects to bring the action, it shall inform the Attorney General of such suit and advise him of subsequent developments. (Sept. 21, 1922, ch. 369, § 6c, as added Oct. 23, 1974, Pub. L. 93–463, title II, § 211, 88 Stat. 1402.)

EFFECTIVE DATE

Section effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this section to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

§ 13b. Manipulations or other violations; cease and desist orders against persons other than contract markets; punishment; misdemeanor or felony; separate offenses.

If any person (other than a contract market) is manipulating or attempting to manipulate or has manipulated or attempted to manipulate the market price of any commodity, in interstate commerce, or for future delivery on or subject to the rules of any contract market, or otherwise is violating or has violated any of the provisions of this chapter or of the rules, regulations, or orders of the Commission thereunder, the Commission may, upon notice and hearing, and subject to appeal as in other cases provided for in section 9 of this title, make and enter an order directing that such person shall cease and desist therefrom and, if such person thereafter and after the lapse of the period allowed for appeal of such order or after the affirmance of such order, shall fail or refuse to obey or comply with such order, such person shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $100,000, or imprisoned for not less than six months nor more than one year, or both, except that if such failure or refusal to obey or comply with such order involves any offense within paragraph (a) or (b) of section 13 of this title, such person shall be guilty of a felony and, upon conviction thereof, shall be subject to the penalties of said paragraph (a) or (b): *Provided*, That any such cease and desist order against any respondent in any case of manipulation of, or attempt to manipulate, the price of any commodity shall be issued only in conjunction with an order issued against such respondent under section 9 of this title. Each day during which such failure or refusal to obey or comply with such order continues shall be deemed a separate offense. (As amended Oct. 23, 1974, Pub. L. 93–463, title I, § 103(a), (b), title II, § 212(c), 88 Stat. 1392, 1404.)

AMENDMENTS

1974—Pub. L. 93–463 substituted "not more than $100,000" for "not less than $500 nor more than $10,000" and substituted "Commission" for "Secretary of Agriculture or the Commission" and "Secretary".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

§ 13c. Responsibility as principal; minor violations.

(a) Any person who commits, or who willfully aids, abets, counsels, commands, induces, or procures the commission of, a violation of any of the provisions of this chapter, or any of the rules; regulations, or orders issued pursuant to this chapter, or who acts in combination or concert with any other person in any such violation, or who willfully causes an act to be done or omitted which if directly performed or omitted by him or another would be

a violation of the provisions of this chapter or any of such rules, regulations, or orders may be held responsible in administrative proceedings under this chapter for such violation as a principal.

(b) Nothing in this chapter shall be construed as requiring the Commission to report minor violations of this chapter for prosecution, whenever it appears that the public interest does not require such action. (As amended Oct. 23, 1974, Pub. L. 93–463, title I, § 103(b), 88 Stat. 1392.)

AMENDMENTS

1974—Par. (b). Pub. L. 93–463 substituted "Commission" for "Secretary of Agriculture or the commission".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

§ 15. Provisions of Interstate Commerce Act made applicable.

For the purpose of securing effective enforcement of the provisions of this chapter, and for the purpose of any investigation or proceeding under this chapter, the provisions, including penalties, of section 12 of Title 49, relating to the attendance and testimony of witnesses and the production of documentary evidence, are made applicable to the power, jurisdiction, and authority of the Commission, and any Administrative Law Judge designated pursuant to the provisions of this chapter, and to any person subject thereto. (As amended Oct. 23, 1974, Pub. L. 93–463, title I, § 103(d), title IV, § 408(b), 88 Stat. 1392, 1414.)

AMENDMENTS

1974—Pub. L. 93–463 struck out "the Secretary of Agriculture (or any person designated by him)," following "jurisdiction, and authority of" and substituted "Administrative Law Judge" for "referee".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 12 of this title.

§ 15a. Leverage contracts for gold and silver.

(a) No person shall offer to enter into, enter into, or confirm the execution of any transaction for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins, pursuant to a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract contrary to any rule, regulation, or order of the Commodity Futures Trading Commission designed to insure the financial solvency of the transaction or prevent manipulation or fraud: *Provided*, That such rule, regulation, or order may be made only after notice and opportunity for hearing. If the Commission determines that any such transaction is a contract for future delivery within the meaning of this chapter, such transaction shall be regulated in accordance with the provisions of this chapter.

(b) The provisions of section 13(c) of this title shall be applicable with respect to persons who violate the provisions of this section. (Pub. L. 93–463, title II, § 217, Oct. 23, 1974, 88 Stat. 1405.)

CODIFICATION

Section was enacted as part of the Commodity Futures Trading Commission Act of 1974, and not as part of the Commodity Exchange Act which enacted this chapter.

EFFECTIVE DATE

Section effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this section to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2 of this title.

§ 16. Commission operations.

(a) Cooperation with other agencies.

The Commission may cooperate with any Department or agency of the Government, any State, territory, district, or possession, or department, agency, or political subdivision thereof, or any person.

(b) Employment of investigators, experts, Administrative Law Judges, consultants, clerks, and other personnel; contracts.

The Commission shall have the authority to employ such investigators, special experts, Administrative Law Judges, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress. The Commission may employ experts and consultants in accordance with section 3109 of Title 5, and compensate such persons at rates not in excess of the maximum daily rate prescribed for GS–18 under section 5332 of Title 5. The Commission shall also have authority to make and enter into contracts with respect to all matters which in the judgment of the Commission are necessary and appropriate to effectuate the purposes and provisions of this chapter, including, but not limited to, the rental of necessary space at the seat of Government and elsewhere.

(c) Expenses.

All of the expenses of the Commissioners, including all necessary expenses for transportation incurred by them while on official business of the Commission, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Commission.

(d) Authorization of appropriations.

There are hereby authorized to be appropriated to carry out the provisions of this chapter such sums as may be required for the fiscal year ending June 30, 1975, for the fiscal year ending June 30, 1976, for the fiscal year ending June 30, 1977, and for the fiscal year ending June 30, 1978. (As amended Oct. 23, 1974, Pub. L. 93–463, title I, § 101(b), 88 Stat. 1391.)

AMENDMENTS

1974—Pub. L. 93–463 designated existing unlettered provisions as subsecs. (a)–(d) and in subsecs. (a)–(d) as so designated substituted "Commission" for "Secretary of Agriculture", added provisions authorizing the expenditure of funds for expenses upon the presentation of itemized vouchers therefor approved by the Commission, substituted provisions authorizing appropriations specifically for fiscal years ending June 30, 1975, 1976, 1977, and 1978, for provisions making a general authorization of appropriations without a fiscal year limitation, and added authorization to enter into contracts and compensate experts and consultants in accordance with section 3109 of Title 5 at rates not in excess of the maximum daily rate prescribed for GS–18 under section 5332 of Title 5.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–463 effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

§ 18. Complaints against registered persons.

(a) Petition.

Any person complaining of any violation of any provision of this chapter or any rule, regulation, or order thereunder by any person registered under section 6d, 6e, 6j or 6m of this title may, at any time within two years after the cause of action accrues, apply to the Commission by petition, which shall briefly state the facts, whereupon, if, in the opinion of the Commission, the facts therein contained warrant such action, a copy of the complaint thus made shall be forwarded by the Commission to the respondent, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be prescribed by the Commission.

(b) Investigation and hearing.

If there appear to be, in the opinion of the Commission, any reasonable grounds for investigating any complaint made under this section, the Commission shall investigate such complaint and may, if in its opinion the facts warrant such action, have said complaint served by registered mail or by certified mail or otherwise on the respondent and afford such person an opportunity for a hearing thereon before an Administrative Law Judge designated by the Commission in any place in which the said person is engaged in business: *Provided*, That in complaints wherein the amount claimed as damages does not exceed the sum of $2,500, a hearing need not be held and proof in support of the complaint and in support of the respondent's answer may be supplied in the form of depositions or verified statements of fact.

(c) Determination.

After opportunity for hearing on complaints where the damages claimed exceed the sum of $2,500 has been provided or waived and on complaints where damages claimed do not exceed the sum of $2,500 not requiring hearing as provided herein, the Commission shall determine whether or not the respondent has violated any provision of this chapter or any rule, regulation, or order thereunder.

(d) Bond requirement when complainant is nonresident; waiver.

In case a complaint is made by a nonresident of the United States, the complainant shall be required, before any formal action is taken on his complaint, to furnish a bond in double the amount of the claim conditioned upon the payment of costs, including a reasonable attorney's fee for the respondent if the respondent shall prevail, and any reparation award that may be issued by the Commission against the complainant on any counterclaim by respondent: *Provided*, That the Commission shall have authority to waive the furnishing of a bond by a complainant who is a resident of a country which permits the filing of a complaint by a resident of the United States without the furnishing of a bond.

(e) Reparations.

If after a hearing on a complaint made by any person under subsection (a) of this section, or without hearing as provided in subsections (b) and (c) of this section, or upon failure of the party complained against to answer a complaint duly served within the time prescribed, or to appear at a hearing after being duly notified, the Commission determines that the respondent has violated any provision of this chapter, or any rule, regulation, or order thereunder, the Commission shall, unless the offender has already made reparation to the person complaining, determine the amount of damage, if any, to which such person is entitled as a result of such violation and shall make an order directing the offender to pay to such person complaining such amount on or before the date fixed in the order. If, after the respondent has filed his answer to the complaint, it appears therein that the respondent has admitted liability for a portion of the amount claimed in the complaint as damages, the Commission under such rules and regulations as it shall prescribe, unless the respondent has already made reparation to the person complaining, may issue an order directing the respondent to pay to the complainant the undisputed amount on or before the date fixed in the order, leaving the respondent's liability for the disputed amount for subsequent determination. The remaining disputed amount shall be determined in the same manner and under the same procedure as it would have been determined if no order had been issued by the Commission with respect to the undisputed sum.

(f) Enforcement of reparation award.

If any person against whom an award has been made does not pay the reparation award within the time specified in the Commission's order, the complainant, or any person for whose benefit such order was made, within three years of the date of the order, may file a certified copy of the order of the Commission, in the district court of the United States for the district in which he resides or in which is located the principal place of business of the respondent, for enforcement of such reparation award by appropriate orders. The orders, writs, and processes of such district court may in such case run, be served, and be returnable anywhere in the United States. The petitioner shall not be liable for costs in the district court, nor for costs at any subsequent state of the proceedings, unless they accrue

upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit. Subject to the right of appeal under subsection (g) of this section, an order of the Commission awarding reparations shall be final and conclusive.

(g) Review.

Any order of the Commission entered hereunder shall be reviewable on petition of any party aggrieved thereby, by the United States Court of Appeals for any circuit in which a hearing was held, or if no hearing was held, any circuit in which the appellee is located, under the procedure provided in section 9 of this title. Such appeal shall not be effective unless within 30 days from and after the date of the reparation order the appellant also files with the clerk of the court a bond in double the amount of the reparation awarded against the appellant conditioned upon the payment of the judgment entered by the court, plus interest and costs, including a reasonable attorney's fee for the appellee, if the appellee shall prevail. Such bond shall be in the form of cash, negotiable securities having a market value at least equivalent to the amount of bond prescribed, or the undertaking of a surety company on the approved list of sureties issued by the Treasury Department of the United States. The appellee shall not be liable for costs in said court. If the appellee prevails, he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of his costs.

(h) Penalty.

Unless the registrant against whom a reparation order has been issued shows to the satisfaction of the Commission within fifteen days from the expiration of the period allowed for compliance with such order that he has either taken an appeal as herein authorized or has made payment in full as required by such order, he shall be prohibited from trading on all contract markets and his registration shall be suspended automatically at the expiration of such fifteen-day period until he shows to the satisfaction of the Commission that he has paid the amount therein specified with interest thereon to date of payment: *Provided,* That if on appeal the appellee prevails or if the appeal is dismissed the automatic prohibition against trading and suspension of registration shall become effective at the expiration of thirty days from the date of judgment on the appeal, but if the judgment is stayed by a court of competent jurisdiction the suspension shall become effective ten days after the expiration of such stay, unless prior thereto the judgment of the court has been satisfied.

(i) Effective date.

The provisions of this section shall not become effective until fifteen months after October 23, 1974: *Provided,* That claims which arise within one year immediately prior to the effective date of this section may be heard by the Commission after such fifteen months period. (Sept. 21, 1922, ch. 369, § 14, as added Oct. 23, 1974, Pub. L. 93–463, title I, § 106, 88 Stat. 1393, and amended Apr. 16, 1975, Pub. L. 94–16, § 3, 89 Stat. 77.)

AMENDMENTS

1975—Subsec. (i). Pub. L. 94–16 substituted "fifteen months" for "one year" in two instances, and "one year" for "nine months".

§ 19. Antitrust laws; anticompetitive means.

The Commission shall take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of this chapter, as well as the policies and purposes of this chapter, in issuing any order or adopting any Commission rule or regulation, or in requiring or approving any bylaw, rule, or regulation of a contract market or registered futures association established pursuant to section 21 of this title. (Sept. 21, 1922, ch. 369, § 15, as added Oct. 23, 1974, Pub. L. 93–463, title I, § 107, 88 Stat. 1395.)

EFFECTIVE DATE

Section effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this section to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

§ 20. Market reports.

(a) Information.

The Commission may conduct regular investigations of the markets for goods, articles, services, rights, and interests which are the subject of futures contracts, and furnish reports of the findings of these investigations to the public on a regular basis. These market reports shall, where appropriate, include information on the supply, demand, prices, and other conditions in the United States and other countries with respect to such goods, articles, services, rights, interests, and information respecting the futures markets.

(b) Avoidance of duplication.

The Commission shall cooperate with the Department of Agriculture and any other Department or Federal agency which makes market investigations to avoid unnecessary duplication of information-gathering activities.

(c) Furnishing of information; confidentiality.

The Department of Agriculture and any other Department or Federal agency which has market information sought by the Commission shall furnish it to the Commission upon the request of any authorized employee of the Commission. The Commission shall abide by any rules of confidentiality applying to such information.

(d) Disclosure of business transactions, trade secrets, or names of customers.

The Commission shall not disclose in such reports data and information which would separately disclose the business transactions of any person and trade secrets or names of customers except as provided in sections 12 to 12–3 of this title. (Sept. 21, 1922, ch. 369, § 16, as added Oct. 23, 1974, Pub. L. 93–463, title IV, § 414, 88 Stat. 1414.)

EFFECTIVE DATE

Section effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974,

and with all activities necessary to implement the changes effected by this section to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

§ 21. Registered futures associations.

(a) Registration statement.

Any association of persons may be registered with the Commission as a registered futures association pursuant to subsection (b) of this section, under the terms and conditions hereinafter provided in this section, by filing with the Commission for review and approval a registration statement in such form as the Commission may prescribe, setting forth the information, and accompanied by the documents, below specified:

(1) Data as to its organization, membership, and rules of procedure, and such other information as the Commission may by rules and regulations require as necessary or appropriate in the public interest; and

(2) Copies of its constitution, charter, or articles of incorporation or association, with all amendments thereto, and of its bylaws, and of any rules or instruments corresponding to the foregoing, whatever the name, hereinafter in this section collectively referred to as the "rules of the association".

(b) Standards for registration; Commission findings.

An applicant association shall not be registered as a futures association unless the Commission finds, under standards established by the Commission, that—

(1) such association is in the public interest and that it will be able to comply with the provisions of this section and the rules and regulations thereunder and to carry out the purposes of this section;

(2) the rules of the association provide that any person registered under this chapter, contract market, or any other person designated pursuant to the rules of the Commission as eligible for membership may become a member of such association, except such as are excluded pursuant to paragraph (3) or (4) of this subsection, or a rule of the association permitted under this paragraph. The rules of the association may restrict membership in such association on such specified basis relating to the type of business done by its members, or on such other specified and appropriate basis, as appears to the Commission to be necessary or appropriate in the public interest and to carry out the purpose of this section. Rules adopted by the association may provide that the association may, unless the Commission directs otherwise in cases in which the Commission finds it appropriate in the public interest so to direct, deny admission to, or refuse to continue in such association any person if (i) such person, whether prior or subsequent to becoming registered as such, or (ii) any person associated with in the meaning of "associated person" as set forth in section 6k of this title, whether prior or subsequent to becoming so associated, has been and is suspended or expelled from a contract market or has been and is barred or suspended from being associated with all members of such contract market, for violation of any rule of such contract market;

(3) the rules of the association provide that, except with the approval or at the direction of the Commission in cases in which the Commission finds it appropriate in the public interest so to approve or direct, no person shall be admitted to or continued in membership in such association, if such person—

(A) has been and is suspended or expelled from a registered futures association or from a contract market or has been and is barred or suspended from being associated with all members of such association or from being associated with all members of such contract market, for violation of any rule of such association or contract market which prohibits any act or transaction constituting conduct inconsistent with just and equitable principles of trade, or requires any act the omission of which constitutes conduct inconsistent with just and equitable principles of trade; or

(B) is subject to an order of the Commission denying, suspending, or revoking his registration pursuant to section 9 of this title, or expelling or suspending him from membership in a registered futures association or a contract market, or barring or suspending him from being associated with a futures commission merchant; or

(C) whether prior or subsequent to becoming a member, by his conduct while associated with a member, was a cause of any suspension, expulsion, or order of the character described in clause (A) or (B) which is in effect with respect to such member, and in entering such a suspension, expulsion, or order, the Commission or any such contract market or association shall have jurisdiction to determine whether or not any person was a cause thereof; or

(D) has associated with him any person who is known, or in the exercise of reasonable care should be known, to him to be a person who would be ineligible for admission to or continuance in membership under clause (A), (B), or (C) of this paragraph.

(4) the rules of the association provide that, except with the approval or at the direction of the Commission in cases in which the Commission finds it appropriate in the public interest so to approve or direct, no person shall become a member and no natural person shall become a person associated with a member, unless such person is qualified to become a member or a person associated with a member in conformity with specified and appropriate standards with respect to the training, experience, and such other qualifications of such person as the association finds necessary or desirable, and in the case of a member, the financial responsibility of such a member. For the purpose of defining such standards and the application thereof, such rules may—

(A) appropriately classify prospective members (taking into account relevant matters, including type or nature of business done) and persons proposed to be associated with members.

(B) specify that all or any portion of such standard shall be applicable to any such class.

(C) require persons in any such class to pass examinations prescribed in accordance with such rules.

(D) provide that persons in any such class other than prospective members and partners, officers and supervisory employees (which latter term may be defined by such rules and as so defined shall include branch managers of members) of members, may be qualified solely on the basis of compliance with specified standards of training and such other qualifications as the association finds appropriate.

(E) provide that applications to become a member or a person associated with a member shall set forth such facts as the association may prescribe as to the training, experience, and other qualifications (including, in the case of an applicant for membership, financial responsibility) of the applicant and that the association shall adopt procedures for verification of qualifications of the applicant.

(F) require any class of persons associated with a member to be registered with the association in accordance with procedures specified by such rules (and any application or document supplemental thereto required by such rules of a person seeking to be registered with such association shall, for the purposes of section 9 of this title, be deemed an application required to be filed under this section).

(5) the rules of the association assure a fair representation of its members in the adoption of any rule of the association or amendment thereto, the selection of its officers and directors, and in all other phases of the administration of its affairs.

(6) the rules of the association provide for the equitable allocation of dues among its members, to defray reasonable expenses of administration.

(7) the rules of the association are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, in general, to protect the public interest, and to remove impediments to and perfect the mechanism of free and open futures trading.

(8) the rules of the association provide that its members and persons associated with its members shall be appropriately disciplined, by expulsion, suspension, fine, censure, or being suspended or barred from being associated with all members, or any other fitting penalty, for any violation of its rules.

(9) the rules of the association provide a fair and orderly procedure with respect to the disciplining of members and persons associated with members and the denial of membership to any person seeking membership therein or the barring of any person from being associated with a member. In any proceeding to determine whether any member or other person shall be disciplined, such rules shall require that specific charges be brought; that such member or person shall be notified of, and be given an opportunity to defend against, such charges; that a record shall be kept; and that the determination shall include—

(A) a statement setting forth any act or practice in which such member or other person may be found to have engaged, or which such member or other person may be found to have omitted.

(B) a statement setting forth the specific rule or rules of the association of which any such act or practice, or omission to act, is deemed to be in violation.

(C) a statement whether the acts or practices prohibited by such rule or rules, or the omission of any act required thereby, are deemed to constitute conduct inconsistent with just and equitable principles of trade.

(D) a statement setting forth the penalty imposed.

In any proceeding to determine whether a person shall be denied membership or whether any person shall be barred from being associated with a member, such rules shall provide that the person shall be notified of, and be given an opportunity to be heard upon, the specific grounds for denial or bar which are under consideration; that a record shall be kept; and that the determination shall set forth the specific grounds upon which the denial or bar is based.

(10) the rules of the association provide for a fair and equitable procedure through arbitration or otherwise for the settlement of a customer's claims and grievances against any member or employee thereof: *Provided*, That (i) the use of such procedure by a customer shall be voluntary, (ii) the procedure shall not be applicable to any claim in excess of $5,000, (iii) the procedure shall not result in any compulsory payment except as agreed upon between the parties, and (iv) the term "customer" as used in this subsection shall not include a futures commission merchant or a floor broker.

(c) Suspension of registration.

The Commission may, after notice and opportunity for hearing, suspend the registration of any futures association if it finds that the rules thereof do not conform to the requirements of the Commission, and any such suspension shall remain in effect until the Commission issues an order determining that such rules have been modified to conform with such requirements.

(d) Fees and charges.

In addition to the fees and charges authorized by section 12a(4) of this title, each person registered under this chapter, who is not a member of a futures association registered pursuant to this section, shall pay to the Commission such reasonable fees and charges as may be necessary to defray the costs of additional regulatory duties required to be performed by the Commission because such person is not a member of a registered futures association. The Commission shall establish such additional fees and charges by rules and regulations.

(e) Registered persons not members of registered associations.

Any person registered under this chapter, who is not a member of a futures association registered pursuant to this section, in addition to the other requirements and obligations of this chapter and

the regulations thereunder shall be subject to such other rules and regulations as the Commission may find necessary to protect the public interest and promote just and equitable principles of trade.

(f) Denial of registration.

Upon filing of an application for registration pursuant to subsection (a) of this section, the Commission may by order grant such registration if the requirements of this section are satisfied. If, after appropriate notice and opportunity for hearing, it appears to the Commission that any requirement of this section is not satisfied, the Commission shall by order deny such registration.

(g) Withdrawal from registration; notice of withdrawal.

A registered futures association may, upon such reasonable notice as the Commission may deem necessary in the public interest, withdraw from registration by filing with the Commission a written notice of withdrawal in such form as the Commission may by rules and regulations prescribe.

(h) Commission review of disciplinary actions taken by registered futures associations.

If any registered futures association takes any disciplinary action against any member thereof or any person associated with such a member or denies admission to any person seeking membership therein, or bars any person from being associated with a member, such action shall be subject to review by the Commission, on its own motion, or upon application by any person aggrieved thereby filed within thirty days after such action has been taken or within such longer period as the Commission may determine. Application to the Commission for review, or the institution of review by the Commission on its own motion, shall operate as a stay of such action until an order is issued upon such review pursuant to subsection (k) of this section unless the Commission otherwise orders, after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of affidavits and oral arguments).

(i) Notice; hearing; findings; cancellation, reduction, or remission of penalties.

(1) In a proceeding to review disciplinary action taken by a registered futures association against a member thereof or a person associated with a member, if the Commission, after appropriate notice and opportunity for hearing, upon consideration of the record before the association and such other evidence as it may deem relevant—

(A) finds that such member or person has engaged in such acts or practices, or has omitted such act, as the association has found him to have engaged in or omitted, and

(B) determines that such acts or practices, or omission to act, are in violation of such rules of the association as have been designated in the determination of the association, the Commission shall by order dismiss the proceeding, unless it appears to the Commission that such action should be modified in accordance with paragraph (2) of this subsection. The Commission shall likewise determine whether the acts or practices prohibited, or the omission of any act required, by any such rule constitute conduct inconsistent with just and equitable principles of trade, and shall so declare. If it appears to the Commission that the evidence does not warrant the finding required in clause (A), or if the Commission determines that such acts or practices as are found to have been engaged in are not prohibited by the designated rule or rules of the association, or that such act as is found to have been omitted is not required by such designated rule or rules, the Commission shall by order set aside the action of the association.

(2) If, after appropriate notice and opportunity for hearing, the Commission finds that any penalty imposed upon a member or person associated with a member is excessive or oppressive, having due regard to the public interest, the Commission shall by order cancel, reduce, or require the remission of such penalty.

(3) In any proceeding to review the denial of membership in a registered futures association or the barring of any person from being associated with a member, if the Commission, after appropriate notice and hearing, and upon consideration of the record before the association and such other evidence as it may deem relevant, determines that the specific grounds on which such denial or bar is based exist in fact and are valid under this section, the Commission shall by order dismiss the proceeding; otherwise, the Commission shall by order set aside the action of the association and require it to admit the applicant to membership therein, or to permit such person to be associated with a member.

(j) Changes or additions to association rules.

Every registered futures association shall file with the Commission in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest, copies of any changes in or additions to the rules of the association, and such other information and documents as the Commission may require to keep current or to supplement the registration statement and documents filed pursuant to subsection (a) of this section. Any change in or addition to the rules of a registered futures association shall be submitted to the Commission for approval and shall take effect upon the thirtieth day after such approval by the Commission, or upon such earlier date as the Commission may determine, unless the Commission shall enter an order disapproving such change or addition; and the Commission shall enter such an order unless such change or addition appears to the Commission to be consistent with the requirements of this section and the provisions of this chapter.

(k) Abrogation of association rules; requests to associations by Commission to alter or supplement rules.

(1) The Commission is authorized by order to abrogate any rule of a registered futures association, if after appropriate notice and opportunity for hearing, it appears to the Commission that such abrogation is necessary or appropriate to assure fair dealing by the members of such association, to assure a fair representation of its members in the administration of its affairs or effectuate the purposes of this section.

(2) The Commission may in writing request any registered futures association to adopt any specified alteration or supplement to its rules with respect to any of the matters hereinafter enumerated. If such association fails to adopt such alteration or supplement within a reasonable time, the Commission is authorized by order to alter or supplement the rules of such association in the manner theretofore requested, or with such modifications of such alteration or supplement as it deems necessary if, after appropriate notice and opportunity for hearing, it appears to the Commission that such alteration or supplement is necessary or appropriate in the public interest or to effectuate the purposes of this section, with respect to—

(A) the basis for, and procedure in connection with, the denial of membership or the barring from being associated with a member or the discipling of members or persons associated with members, or the qualifications required for members or natural persons associated with members or any class thereof;

(B) the method for adoption of any change in or addition to the rules of the association;

(C) the method of choosing officers and directors.

(*l*) Suspension and revocation of registration; expulsion of members; removal of association officers or directors.

The Commission is authorized, if such action appears to it to be necessary or appropriate in the public interest or to carry out the purposes of this section—

(1) after appropriate notice and opportunity for hearing, by order to suspend for a period not exceeding twelve months or to revoke the registration of a registered futures association, if the Commission finds that such association has violated any provisions of this section or any rule or regulation thereunder, or has failed to enforce compliance with its own rules, or has engaged in any other activity tending to defeat the purposes of this chapter;

(2) after appropriate notice and opportunity for hearing, by order to suspend for a period not exceeding twelve months or to expel from a registered futures association any member thereof, or to suspend for a period not exceeding twelve months or to bar any person from being associated with a member thereof, if the Commission finds that such member or person—

(A) has violated any provision of this section or any rule or regulation thereunder, or has effected any transaction for any other person who, he had reason to believe, was violating with respect to such transaction any provision of this section or any rule or regulation thereunder; or

(B) has willfully violated any provision of this chapter, or of any rule, regulation, or order thereunder, or has effected any transaction for any other person who, he had reason to believe, was willfully violating with respect to such transaction any provision of this chapter or rule, regulation, or order.

(3) after appropriate notice and opportunity for hearing, by order to remove from office any officer or director of a registered futures association who, the Commission finds, has willfully failed to enforce the rules of the association, or has willfully abused his authority.

(m) Reports to Congress.

The Commission shall include in its annual reports to Congress information concerning any futures associations registered pursuant to this section and the effectiveness of such associations in regulating the practices of the members. (Sept. 21, 1922, ch. 369, § 17, as added Oct. 23, 1974, Pub. L. 93–463, title III, § 301, 88 Stat. 1406.)

EFFECTIVE DATE

Section effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this section to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6p, 19 of this title.

§ 22. Research and information programs; reports to Congress.

(a) The Commission shall establish and maintain, as part of its ongoing operations, research and information programs to (1) determine the feasibility of trading by computer, and the expanded use of modern information system technology, electronic data processing, and modern communication systems by commodity exchanges, boards of trade, and by the Commission itself for purposes of improving, strengthening, facilitating, or regulating futures trading operations; (2) assist in the development of educational and other informational materials regarding futures trading for dissemination and use among producers, market users, and the general public; and (3) carry out the general purposes of this chapter.

(b) The Commission shall include in its annual reports to Congress plans and findings with respect to implementing this section. (Sept. 21, 1922, ch. 369, § 18, as added Oct. 23, 1974, Pub. L. 93–463, title IV, § 416, 88 Stat. 1415.)

EFFECTIVE DATE

Section effective on the 180th day after Oct. 23, 1974, with the establishment of the Commodity Futures Trading Commission to be immediately effective on Oct. 23, 1974, and with all activities necessary to implement the changes effected by this section to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

Chapter 6.—INSECTICIDES

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SUBCHAPTER I—ECONOMIC POISON CONTROL

CODIFICATION

Continuation in effect of provisions of this subchapter and regulations promulgated thereunder as in existence prior to the enactment of Pub. L. 92–516 until superseded by provisions of Pub. L. 92–516 and regulations thereunder, to become effective within four years after Oct. 21, 1972, see section 4 of Pub. L. 92–516, Oct. 21, 1972, 86 Stat. 998, set out as a note under section 136 of this title.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 15 section 1261.

§ 135. Definitions.

For the purposes of sections 135 to 135k of this title—

(a) The term "economic poison" means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the Administrator shall declare to be a pest, and (2) any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

(b) The term "device" means any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or rodents or destroying, repelling, or mitigating fungi, nematodes, or such other pests as may be designated by the Administrator, but not including equipment used for the application of economic poisons when sold separately therefrom.

* * * * *

(e) The term "rodenticide" means any substance or mixture of substances intended for preventing,

destroying, repelling, or mitigating rodents or any other vertebrate animal which the Administrator shall declare to be a pest.

* * * * *

TRANSFER OF FUNCTIONS

"Administrator" was substituted for "Secretary" in subsecs. (a), (b) and (e). See Transfer of Functions note in main volume under this section.

§ 135a. Prohibited acts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 1471.

§ 135b. Registration of economic poisons.

INDEMNIFICATION FOR BEEKEEPERS

Section 804 of Pub. L. 91-524, title VIII, Nov. 30, 1970, 84 Stat. 1382 as amended by Pub. L. 93-86, § 1(27)(A), Aug. 10, 1973, 87 Stat. 237, provided that:

"(a) The Secretary of Agriculture is authorized to make indemnity payments to beekeepers who through no fault of their own have suffered losses of honey bees after January 1, 1967, as a result of utilization of economic poisons near or adjacent to the property on which the beehives of such beekeepers were located.

"(b) The amount of the indemnity payment in the case of any beekeeper shall be determined on the basis of the net loss sustained by such beekeeper as a result of the loss of his honey bees.

"(c) Indemnity payments shall be made only in cases in which the loss occurred as a result of the use of economic poisons which had been registered and approved for use by the Federal Government.

"(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

"(e) The Secretary is authorized to issue such regulations as he deems necessary to carry out the purposes of this section.

"(f) The provisions of this section shall not be in effect after December 31, 1977."

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER II—ENVIRONMENTAL PESTICIDE CONTROL [NEW]

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 21 sections 321, 346a.

§ 136. Definitions.

For purposes of this subchapter—

(a) Active ingredient.

The term "active ingredient" means—

(1) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate any pest;

(2) in the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the product thereof;

(3) in the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant; and

(4) in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

(b) Administrator.

The term "Administrator" means the Administrator of the Environmental Protection Agency.

(c) Adulterated.

The term "adulterated" applies to any pesticide if:

(1) its strength or purity falls below the professed standard of quality as expressed on its labeling under which it is sold;

(2) any substance has been substituted wholly or in part for the pesticide; or

(3) any valuable constituent of the pesticide has been wholly or in part abstracted.

(d) Animal.

The term "animal" means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish.

(e) Certified applicator, etc.

(1) Certified applicator.

The term "certified applicator" means any individual who is certified under section 136b of this title as authorized to use or supervise the use of any pesticide which is classified for restricted use.

(2) Private applicator.

The term "private applicator" mean a certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or (if applied without compensation other than trading or personal services between producers of agricultural commodities) on the property of another person.

(3) Commercial applicator.

The term "commercial applicator" means a certified applicator (whether or not he is a private applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by paragraph (2).

(4) Under the direct supervision of a certified applicator.

Unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied.

(f) Defoliant.

The term "defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

(g) Desiccant.

The term "desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

(h) Device.

The term "device" means any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals); but not including equipment used for the application of pesticides when sold separately therefrom.

(i) District court.

The term "district court" means a United States district court, the District Court of Guam, the District Court of the Virgin Islands, and the highest court of American Samoa.

(j) Environment.

The term "environment" includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.

(k) Fungus.

The term "fungus" means any non-chlorophyll-bearing thallophyte (that is, any non-chlorophyll-bearing plant of a lower order than mosses and liverworts), as for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other animals and those on or in processed food, beverages, or pharmaceuticals.

(*l*) Imminent hazard.

The term "imminent hazard" means a situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would be likely to result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered or threatened by the Secretary pursuant to the Endangered Species Act of 1973.

(m) Inert ingredient.

The term "inert ingredient" means an ingredient which is not active.

(n) Ingredient statement.

The term "ingredient statement" means a statement which contains—

(1) the name and percentage of each active ingredient, and the total percentage of all inert ingredients, in the pesticide; and

(2) if the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, calculated as elementary arsenic.

(*o*) Insect.

The term "insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

(p) Label and labeling.

(1) Label.

The term "label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

(2) Labeling.

The term "labeling" means all labels and all other written, printed, or graphic matter—

(A) accompanying the pesticide or device at any time; or

(B) to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the Environmental Protection Agency, the United States Departments of Agriculture and Interior, the Department of Health, Education, and Welfare, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

(q) Misbranded.

(1) A pesticide is misbranded if—

(A) its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(B) it is contained in a package or other container or wrapping which does not conform to the standards established by the Administrator pursuant to section 136w(c)(3) of this title;

(C) it is an imitation of, or is offered for sale under the name of, another pesticide;

(D) its label does not bear the registration number assigned under section 136e of this title to each establishment in which it was produced;

(E) any word, statement, or other information required by or under authority of this subchapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(F) the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under section 136a(d) of this title, are adequate to protect health and the environment;

(G) the label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under section 136a(d) of this title, is adequate to protect health and the environment.

(2) A pesticide is misbranded if—

(A) the label does not bear an ingredient statement on that part of the immediate container (and on the outside container or wrapper

of the retail package, if there be one, through which the ingredient statement on the immediate container cannot be clearly read) which is presented or displayed under customary conditions of purchase, except that a pesticide is not misbranded under this subparagraph if:

(i) the size of form of the immediate container, or the outside container or wrapper of the retail package, makes it impracticable to place the ingredient statement on the part which is presented or displayed under customary conditions of purchase; and

(ii) the ingredient statement appears prominently on another part of the immediate container, or outside container or wrapper, permitted by the Administrator;

(B) the labeling does not contain a statement of the use classification under which the product is registered;

(C) there is not affixed to its container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing—

(i) the name and address of the producer, registrant, or person for whom produced;

(ii) the name, brand, or trademark under which the pesticide is sold;

(iii) the net weight or measure of the content: *Provided*, That the Administrator may permit reasonable variations; and

(iv) when required by regulation of the Administrator to effectuate the purposes of this subchapter, the registration number assigned to the pesticide under this subchapter, and the use classification; and

(D) the pesticide contains any substance or substances in quantities highly toxic to man, unless the label shall bear, in addition to any other matter required by this subchapter—

(i) the skull and crossbones;

(ii) the word "poison" prominently in red on a background of distinctly contrasting color; and

(iii) a statement of a practical treatment (first aid or otherwise) in case of poisoning by the pesticide.

(r) Nematode.

The term "nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms.

(s) Person.

The term "person" means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

(t) Pest.

The term "pest" means (1) any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals) which the Administrator declares to be a pest under section 136w(c)(1) of this title.

(u) Pesticide.

The term "pesticide" means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant: *Provided*, That the term "pesticide" shall not include any article (1) (a) that is a "new animal drug" within the meaning of section 321(w) of Title 21, or (b) that has been determined by the Secretary of Health, Education, and Welfare not to be a new animal drug by a regulation establishing conditions of use for the article, or (2) that is an animal feed within the meaning of section 321(x) of Title 21 bearing or containing an article covered by clause (1) of this proviso.

(v) Plant regulator.

The term "plant regulator" means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments. Also, the term "plant regulator" shall not be required to include any of such of those nutrient mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products, intended for improvement, maintenance, survival, health, and propagation of plants, and as are not for pest destruction and are nontoxic, nonpoisonous in the undiluted packaged concentration.

(w) Producer and produce.

The term "producer" means the person who manufactures, prepares, compounds, propagates, or processes any pesticide or device. The term "produce" means to manufacture, prepare, compound, propagate, or process any pesticide or device.

(x) Protect health and the environment.

The terms "protect health and the environment" and "protection of health and the environment" mean protection against any unreasonable adverse effects on the environment.

(y) Registrant.

The term "registrant" means a person who has registered any pesticide pursuant to the provisions of this subchapter.

(z) Registration.

The term "registration" includes reregistration.

(aa) State.

The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

(bb) Unreasonable adverse effects on the environment.

The term "unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

(cc) Weed.

The term "weed" means any plant which grows where not wanted.

(dd) Establishment.

The term "establishment" means any place where a pesticide or device is produced, or held, for distribution or sale. (June 25, 1947, ch. 125, § 2, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 976, and amended Dec. 28, 1973, Pub. L. 93–205, § 13(f), 87 Stat. 903; Nov. 28, 1975, Pub. L. 94–140, § 9, 89 Stat. 754.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in subsec. (*l*), is classified to section 1531 et seq. of Title 16, Conservation.

AMENDMENTS

1975—Subsec. (u). Pub. L. 94–140 added proviso which excluded from the term "pesticide" any article designated as "new animal drug" and any article denominated as animal feed.

1973—Subsec. (*l*). Pub. L. 93–205 substituted "or threatened by the Secretary pursuant to the Endangered Species Act of 1973" for "by the Secretary of the Interior under Public Law 91–135".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–205 effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of Title 16, Conservation.

EFFECTIVE DATE

Section 4 of Pub. L. 92–516, as amended by Pub. L. 94–140, § 4, provided that:

"(a) Except as otherwise provided in the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by this Act [subchapter II of this chapter] and as otherwise provided by this section, the amendments made by this Act [see Short Title notes set out hereunder] shall take effect at the close of the date of the enactment of this Act [Oct. 21, 1972], provided if regulations are necessary for the implementation of any provision that becomes effective on the date of enactment, such regulations shall be promulgated and shall become effective within 90 days from the date of enactment of this Act.

"(b) The provisions of the Federal Insecticide, Fungicide, and Rodenticide Act and the regulations thereunder as such existed prior to the enactment of this Act [subchapter I of this chapter] shall remain in effect until superseded by the amendments made by this Act and regulations thereunder: *Provided*, That all provisions made by these amendments and all regulations thereunder shall be effective within five years after the enactment of this Act.

"(c)(1) Two years after the enactment of this Act the Administrator shall have promulgated regulations providing for the registration and classification of pesticides under the provisions of this Act and thereafter shall register all new applications under such provisions.

"(2) After two years but within five years after the enactment of this Act the Administrator shall register and reclassify pesticides registered under the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act prior to the effective date of the regulations promulgated under subsection (c)(1).

"(3) Any requirements that a pesticide be registered for use only by a certified applicator shall not be effective until five years from the date of enactment of this Act.

"(4) A period of five years from date of enactment shall be provided for certification of applicators.

"(A) One year after the enactment of this Act the Administrator shall have prescribed the standards for the certification of applicators.

"(B) Within four years after the enactment of this Act each State desiring to certify applicators shall submit a State plan to the Administrator for the purpose provided by section 4(b).

"(C) As promptly as possible but in no event more than one year after submission of a State plan, the Administrator shall approve the State plan or disapprove it and indicate the reasons for disapproval. Consideration of plans resubmitted by States shall be expedited.

"(5) One year after the enactment of this Act the Administrator shall have promulgated and shall make effective regulations relating to the registration of establishments, permits for experimental use, and the keeping of books and records under the provisions of this Act.

"(d) No person shall be subject to any criminal or civil penalty imposed by the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by this Act, for any act (or failure to act) occurring before the expiration of 60 days after the Administrator has published effective regulations in the Federal Register and taken such other action as may be necessary to permit compliance with the provisions under which the penalty is to be imposed.

"(e) For purposes of determining any criminal or civil penalty or liability to any third person in respect of any act or omission occurring before the expiration of the periods referred to in this section, the Federal Insecticide, Fungicide, and Rodenticide Act shall be treated as continuing in effect as if this Act had not been enacted."

SHORT TITLE

Section 1 of Pub. L. 92–516 provided: "That this Act [which enacted this subchapter, and notes set out under this section, and amended sections 1261 and 1471 of Title 15, and sections 321 and 346a of Title 21] may be cited as the 'Federal Environmental Pesticide Control Act of 1972'."

Section 1(a) of Act June 25, 1947, as added by Pub. L. 92–516, § 2, provided that: "This Act [which enacted this subchapter] may be cited as the 'Federal Insecticide, Fungicide, and Rodenticide Act'."

PREVENTION, CONTROL, AND ABATEMENT OF ENVIRONMENTAL POLLUTION AT FEDERAL FACILITIES

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of Title 42, The Public Health and Welfare, provides for the prevention, control, and abatement of environmental pollution at federal facilities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 1471.

§ 136a. Registration of pesticides.

(a) Requirement.

Except as otherwise provided by this subchapter, no person in any State may distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person any pesticide which is not registered with the Administrator.

(b) Exemptions.

A pesticide which is not registered with the Administrator may be transferred if—

(1) the transfer is from one registered establishment to another registered establishment operated by the same producer solely for packaging at the second establishment or for use as a constituent part of another pesticide produced at the second establishment; or

(2) the transfer is pursuant to and in accordance with the requirements of an experimental use permit.

(c) Procedure for registration.

(1) Statement required.

Each applicant for registration of a pesticide shall file with the Administrator a statement which includes—

(A) the name and address of the applicant and of any other person whose name will appear on the labeling;

(B) the name of the pesticide;

(C) a complete copy of the labeling of the pesticide, a statement of all claims to be made for it, and any directions for its use;

(D) if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, except that data submitted on or after January 1, 1970, in support of an application shall not, without permission of the applicant, be considered by the Administrator in support of any other application for registration unless such other applicant shall have first offered to pay reasonable compensation for producing the test data to be relied upon and such data is not protected from disclosure by section 136h(b) of this title. This provision with regard to compensation for producing the test data to be relied upon shall apply with respect to all applications for registration or reregistration submitted on or after October 21, 1972. If the parties cannot agree on the amount and method of payment, the Administrator shall make such determination and may fix such other terms and conditions as may be reasonable under the circumstances. The Administrator's determination shall be made on the record after notice and opportunity for hearing. If either party does not agree with said determination, he may, within thirty days, take an appeal to the Federal district court for the district in which he resides with respect to either the amount of the payment or the terms of payment, or both. Registration shall not be delayed pending the determination of reasonable compensation between the applicants, by the Administrator or by the court.

(E) the complete formula of the pesticide; and

(F) a request that the pesticide be classified for general use, for restricted use, or for both.

(2) Data in support of registration.

The Administrator shall publish guidelines specifying the kinds of information which will be required to support the registration of a pesticide and shall revise such guidelines from time to time. If thereafter he requires any additional kind of information he shall permit sufficient time for applicants to obtain such additional information. Except as provided by subsection (c)(1)(D) of this section and section 136h of this title, within 30 days after the Administrator registers a pesticide under this subchapter he shall make available to the public the data called for in the registration statement together with such other scientific information as he deems relevant to his decision.

(3) Time for acting with respect to application.

The Administrator shall review the data after receipt of the application and shall, as expeditiously as possible, either register the pesticide in accordance with paragraph (5), or notify the applicant of his determination that it does not comply with the provisions of the subchapter in accordance with paragraph (6).

(4) Notice of application.

The Administrator shall publish in the Federal Register, promptly after receipt of the statement and other data required pursuant to paragraphs (1) and (2), a notice of each application for registration of any pesticide if it contains any new active ingredient or if it would entail a changed use pattern. The notice shall provide for a period of 30 days in which any Federal agency or any other interested person may comment.

(5) Approval of registration.

The Administrator shall register a pesticide if he determines that, when considered with any restrictions imposed under subsection (d) of this section—

(A) its composition is such as to warrant the proposed claims for it;

(B) its labeling and other material required to be submitted comply with the requirements of this subchapter;

(C) it will perform its intended function without unreasonable adverse effects on the environment; and

(D) when used in accordance with widespread and commonly recognized practice it will not generally cause unreasonable adverse effects on the environment.

The Administrator shall not make any lack of essentiality a criterion for denying registration of any pesticide. Where two pesticides meet the requirements of this paragraph, one should not be registered in preference to the other.

(6) Denial of registration.

If the Administrator determines that the requirements of paragraph (5) for registration are not satisfied, he shall notify the applicant for registration of his determination and of his reasons (including the factual basis) therefor, and that, unless the applicant corrects the conditions and notifies the Administrator thereof during the 30-day period beginning with the day after the date on which the applicant receives the notice, the Administrator may refuse to register the pesticide. Whenever the Administrator refuses to register a pesticide, he shall notify the applicant of his decision and of his reasons (including the factual basis) therefor. The Administrator shall promptly publish in the Federal Register notice of such denial of registration and the reasons therefor. Upon such notification, the applicant for registration or other interested person with the concurrence of the applicant shall have the same remedies as provided for in section 136d of this title.

(d) Classification of pesticides.

(1) Classification for general use, restricted use, or both.

(A) As a part of the registration of a pesticide the Administrator shall classify it as being for general use or for restricted use, provided that if the Administrator determines that some of the uses for which the pesticide is registered should be for general use and that other uses for which it is registered should be for re-

stricted use, he shall classify it for both general use and restricted use. If some of the uses of the pesticide are classified for general use and other uses are classified for restricted use, the directions relating to its general uses shall be clearly separated and distinguished from those directions relating to its restricted uses: *Provided, however,* That the Administrator may require that its packaging and labeling for restricted uses shall be clearly distinguishable from its packaging and labeling for general uses.

(B) If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, or in accordance with a widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment, he will classify the pesticide, or the particular use or uses of the pesticide to which the determination applies, for general use.

(C) If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, or in accordance with a widespread and commonly recognized practice, may generally cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, including injury to the applicator, he shall classify the pesticide, or the particular use or uses to which the determination applies, for restricted use:

(i) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination that the acute dermal or inhalation toxicity of the pesticide presents a hazard to the applicator or other persons, the pesticide shall be applied for any use to which the restricted classification applies only by or under the direct supervision of a certified applicator.

(ii) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination that its use without additional regulatory restriction may cause unreasonable adverse effects on the environment, the pesticide shall be applied for any use to which the determination applies only by or under the direct supervision of a certified applicator, or subject to such other restrictions as the Administrator may provide by regulation. Any such regulation shall be reviewable in the appropriate court of appeals upon petition of a person adversely affected filed within 60 days of the publication of the regulation in final form.

(2) Change in classification.

If the Administrator determines that a change in the classification of any use of a pesticide from general use to restricted use is necessary to prevent unreasonable adverse effects on the environment, he shall notify the registrant of such pesticide of such determination at least 30 days before making the change and shall publish the proposed change in the Federal Register. The registrant, or other interested person with the concurrence of the registrant, may seek relief from such determination under section 136d(b) of this title.

(e) Products with same formulation and claims.

Products which have the same formulation, are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same pesticide may be registered as a single pesticide; and additional names and labels shall be added to the registration by supplemental statements.

(f) Miscellaneous.

(1) Effect of change of labeling or formulation.

If the labeling or formulation for a pesticide is changed, the registration shall be amended to reflect such change if the Administrator determines that the change will not violate any provision of this subchapter.

(2) Registration not a defense.

In no event shall registration of an article be construed as a defense for the commission of any offense under this subchapter: *Provided,* That as long as no cancellation proceedings are in effect registration of a pesticide shall be prima facie evidence that the pesticide, its labeling and packaging comply with the registration provisions of the subchapter.

(3) Authority to consult other federal agencies.

In connection with consideration of any registration or application for registration under this section, the Administrator may consult with any other Federal agency.

(June 25, 1947, ch. 125, § 3, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 979, and amended Nov. 28, 1975, Pub. L. 94–140, § 12, 89 Stat. 755.)

AMENDMENTS

1975—Subsec. (c)(1)(D). Pub. L. 94–140 added exception relating to test data submitted on or after January 1, 1970, in support of application, added provision that compensation for producing test data shall apply to all applications submitted on or after October 21, 1972, and provision relating to delay of registration pending determination of reasonable compensation, struck out requirement that payment determined by court not be less than amount determined by Administrator, and substituted "'If either party" for "'If the owner of the test data".

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136c, 136j, 136k, 136l, 136m, 136v of this title.

§ 136b. Use of restricted use pesticides; certified applicators.

(a) Certification procedure.

(1) Federal certification.

Subject to paragraph (2), the Administrator shall prescribe standards for the certification of applicators of pesticides. Such standards shall provide that to be certified, an individual must be determined to be competent with respect to the

use and handling of pesticides, or to the use and handling of the pesticide or class of pesticides covered by such individual's certification: *Provided, however,* That the certification standard for a private applicator shall, under a State plan submitted for approval, be deemed fulfilled by his completing a certification form. The Administrator shall further assure that such form contains adequate information and affirmations to carry out the intent of this subchapter, and may include in the form an affirmation that the private applicator has completed a training program approved by the Administrator so long as the program does not require the private applicator to take, pursuant to a requirement prescribed by the Administrator, any examination to establish competency in the use of the pesticide. The Administrator may require any pesticide dealer participating in a certification program to be licensed under a State licensing program approved by him.

(2) State certification.

If any State, at any time, desires to certify applicators of pesticides, the Governor of such State shall submit a State plan for such purpose. The Administrator shall approve the plan submitted by any State, or any modification thereof, if such plan in his judgment—

(A) designates a State agency as the agency responsible for administering the plan throughout the State;

(B) contains satisfactory assurances that such agency has or will have the legal authority and qualified personnel necessary to carry out the plan;

(C) gives satisfactory assurances that the State will devote adequate funds to the administration of the plan;

(D) provides that the State agency will make such reports to the Administrator in such form and containing such information as the Administrator may from time to time require; and

(E) contains satisfactory assurances that State standards for the certification of applicators of pesticides conform with those standards prescribed by the Administrator under paragraph (1).

Any State certification program under this section shall be maintained in accordance with the State plan approved under this section.

(b) State plans.

If the Administrator rejects a plan submitted under this paragraph, he shall afford the State submitting the plan due notice and opportunity for hearing before so doing. If the Administrator approves a plan submitted under this paragraph, then such State shall certify applicators of pesticides with respect to such State. Whenever the Administrator determines that a State is not administering the certification program in accordance with the plan approved under this section, he shall so notify the State and provide for a hearing at the request of the State, and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such plan.

(c) Instruction in integrated pest management techniques.

Standards prescribed by the Administrator for the certification of applicators of pesticides under subsection (a) of this section, and State plans submitted to the Administrator under subsections (a) and (b) of this section, shall include provisions for making instructional materials concerning integrated pest management techniques available to individuals at their request in accordance with the provisions of section 136u(c) of this title, but such plans may not require that any individual receive instruction concerning such techniques or be shown to be competent with respect to the use of such techniques. The Administrator and States implementing such plans shall provide that all interested individuals are notified of the availability of such instructional materials. (June 25, 1947, ch. 125, § 4, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 933, and amended Nov. 28, 1975, Pub. L. 94–140, §§ 5, 11, 89 Stat. 753, 754.)

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 94–140, § 5, added proviso relating to Administrator's powers and duties with respect to the certification forms and requirement for pesticide dealers participating in certification program.

Subsec. (c). Pub. L. 94–140, § 11, added subsec. (c).

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136c of this title.

§ 136c. Experimental use permits.

(a) Issuance.

Any person may apply to the Administrator for an experimental use permit for a pesticide. The Administrator may issue an experimental use permit if he determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under section 136a of this title. An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed.

(b) Temporary tolerance level.

If the Administrator determines that the use of a pesticide may reasonably be expected to result in any residue on or in food or feed, he may establish a temporary tolerance level for the residue of the pesticide before issuing the experimental use permit.

(c) Use under permit.

Use of a pesticide under an experimental use permit shall be under the supervision of the Administrator, and shall be subject to such terms and conditions and be for such period of time as the Administrator may prescribe in the permit.

(d) Studies.

When any experimental use permit is issued for a pesticide containing any chemical or combination of chemicals which has not been included in any previously registered pesticide, the Administrator may specify that studies be conducted to detect whether the use of the pesticide under the permit may cause unreasonable adverse effects on the environment. All results of such studies shall be re-

ported to the Administrator before such pesticide may be registered under section 136a of this title.

(e) Revocation.

The Administrator may revoke any experimental use permit, at any time, if he finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.

(f) State issuance of permits.

Notwithstanding the foregoing provisions of this section, the Administrator may, under such terms and conditions as he may by regulations prescribe, authorize any State to issue an experimental use permit for a pesticide. All provisions of section 136b of this title relating to State plans shall apply with equal force to a State plan for the issuance of experimental use permits under this section.

(g) Exemption for agricultural research agencies.

Notwithstanding the foregoing provisions of this section, the Administrator may issue an experimental use permit for a pesticide to any public or private agricultural research agency or educational institution which applies for such permit. Each permit shall not exceed more than a one-year period or such other specific time as the Administrator may prescribe. Such permit shall be issued under such terms and conditions restricting the use of the pesticide as the Administrator may require: *Provided*, That such pesticide may be used only by such research agency or educational institution for purposes of experimentation. (June 25, 1947, ch. 125, § 5, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 983, and amended Nov. 28, 1975, Pub. L. 94–140, § 10, 89 Stat. 754.)

AMENDMENTS

1975—Subsec. (g). Pub. L. 94–140 added subsec. (g).

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

§ 136d. Administrative review; suspension.

(a) Cancellation after five years.

(1) Procedure.

The Administrator shall cancel the registration of any pesticide at the end of the five-year period which begins on the date of its registration (or at the end of any five year period thereafter) unless the registrant, or other interested person with the concurrence of the registrant, before the end of such period, requests in accordance with regulations prescribed by the Administrator that the registration be continued in effect: *Provided*, That the Administrator may permit the continued sale and use of existing stocks of a pesticide whose registration is canceled under this subsection or subsection (b) of this section to such extent, under such conditions, and for such uses as he may specify if he determines that such sale or use is not inconsistent with the purposes of this subchapter and will not have unreasonable adverse effects on the environment. The Administrator shall publish in the Federal Register, at least 30 days prior to the expiration of such five-year period, notice that the registration will be canceled if the registrant or other interested person with the concurrence of the registrant does not request that the registration be continued in effect.

(2) Information.

If at any time after the registration of a pesticide the registrant has additional factual information regarding unreasonable adverse effects on the environment of the pesticide, he shall submit such information to the Administrator.

(b) Cancellation and change in classification.

If it appears to the Administrator that a pesticide or its labeling or other material required to be submitted does not comply with the provisions of this subchapter or, when used in accordance with widespread and commonly recognized practice, generally causes unreasonable adverse effects on the environment, the Administrator may issue a notice of his intent either—

(1) to cancel its registration or to change its classification together with the reasons (including the factual basis) for his action, or

(2) to hold a hearing to determine whether or not its registration should be canceled or its classification changed.

Such notice shall be sent to the registrant and made public. In determining whether to issue any such notice, the Administrator shall include among those factors to be taken into account the impact of the action proposed in such notice on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy. At least 60 days prior to sending such notice to the registrant or making public such notice, whichever occurs first, the Administrator shall provide the Secretary of Agriculture with a copy of such notice and an analysis of such impact on the agricultural economy. If the Secretary comments in writing to the Administrator regarding the notice and analysis within 30 days after receiving them, the Administrator shall publish in the Federal Register (with the notice) the comments of the Secretary and the response of the Administrator with regard to the Secretary's comments. If the Secretary does not comment in writing to the Administrator regarding the notice and analysis within 30 days after receiving them, the Administrator may notify the registrant and make public the notice at any time after such 30-day period notwithstanding the foregoing 60-day time requirement. The time requirements imposed by the preceding 3 sentences may be waived or modified to the extent agreed upon by the Administrator and the Secretary. Notwithstanding any other provision of this subsection and section 136w(d) of this title, in the event that the Administrator determines that suspension of a pesticide registration is necessary to prevent an imminent hazard to human health, then upon such a finding the Administrator may waive the requirement of notice to and consultation with the Secretary of Agriculture pursuant to this subsection and of submission to the Scientific Advisory Panel pursuant to section 136w(d) of this title and proceed in accordance with subsection (c) of this section. The proposed action shall become final and effective at the end of 30 days from receipt by the registrant, or publication, of a notice issued under paragraph (1), whichever occurs later, unless within that time

either (i) the registrant makes the necessary corrections, if possible, or (ii) a request for a hearing is made by a person adversely affected by the notice. In the event a hearing is held pursuant to such a request or to the Administrator's determination under paragraph (2), a decision pertaining to registration or classification issued after completion of such hearing shall be final. In taking any final action under this subsection, the Administrator shall include among those factors to be taken into account the impact of such final action on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy, and he shall publish in the Federal Register an analysis of such impact.

(c) Suspension.

(1) Order.

If the Administrator determines that action is necessary to prevent an imminent hazard during the time required for cancellation or change in classification proceedings, he may, by order, suspend the registration of the pesticide immediately. No order of suspension may be issued unless the Administrator has issued or at the same time issues notice of his intention to cancel the registration or change the classification of the pesticide.

Except as provided in paragraph (3), the Administrator shall notify the registrant prior to issuing any suspension order. Such notice shall include findings pertaining to the question of "imminent hazard". The registrant shall then have an opportunity, in accordance with the provisions of paragraph (2), for an expedited hearing before the Agency on the question of whether an imminent hazard exists.

(2) Expedite hearing.

If no request for a hearing is submitted to the Agency within five days of the registrant's receipt of the notification provided for by paragraph (1), the suspension order may be issued and shall take effect and shall not be reviewable by a court. If a hearing is requested, it shall commence within five days of the receipt of the request for such hearing unless the registrant and the Agency agree that it shall commence at a later time. The hearing shall be held in accordance with the provisions of subchapter II of chapter 5 of Title 5, except that the presiding officer need not be a certified hearing examiner. The presiding officer shall have ten days from the conclusion of the presentation of evidence to submit recommended findings and conclusions to the Administrator, who shall then have seven days to render a final order on the issue of suspension.

(3) Emergency order.

Whenever the Administrator determines that an emergency exists that does not permit him to hold a hearing before suspending, he may issue a suspension order in advance of notification to the registrant. In that case, paragraph (2) shall apply except that (i) the order of suspension shall be in effect pending the expeditious completion of the remedies provided by that paragraph and the issuance of a final order on suspension, and (ii) no party other than the registrant and the Agency shall participate except that any person adversely affected may file briefs within the time allotted by the Agency's rules. Any person so filing briefs shall be considered a party to such proceeding for the purposes of section 136n(b) of this title.

(4) Judicial review.

A final order on the question of suspension following a hearing shall be reviewable in accordance with section 136n of this title, notwithstanding the fact that any related cancellation proceedings have not been completed. Petitions to review orders on the issue of suspension shall be advanced on the docket of the courts of appeals. Any order of suspension entered prior to a hearing before the Administrator shall be subject to immediate review in an action by the registrant or other interested person with the concurrence of the registrant in an appropriate district court, solely to determine whether the order of suspension was arbitrary, capricious or an abuse of discretion, or whether the order was issued in accordance with the procedures established by law. The effect of any order of the court will be only to stay the effectiveness of the suspension order, pending the Administrator's final decision with respect to cancellation or change in classification. This action may be maintained simultaneously with any administrative review proceeding under this section. The commencement of proceedings under this paragraph shall not operate as a stay of order, unless ordered by the court.

(d) Public hearings and scientific review.

In the event a hearing is requested pursuant to subsection (b) of this section or determined upon by the Administrator pursuant to subsection (b) of this section, such hearing shall be held after due notice for the purpose of receiving evidence relevant and material to the issues raised by the objections filed by the applicant or other interested parties, or to the issues stated by the Administrator, if the hearing is called by the Administrator rather than by the filing of objections. Upon a showing of relevance and reasonable scope of evidence sought by any party to a public hearing, the Hearing Examiner shall issue a subpena to compel testimony or production of documents from any person. The Hearing Examiner shall be guided by the principles of the Federal Rules of Civil Procedure in making any order for the protection of the witness or the content of documents produced and shall order the payment of reasonable fees and expenses as a condition to requiring testimony of the witness. On contest, the subpena may be enforced by an appropriate United States district court in accordance with the principles stated herein. Upon the request of any party to a public hearing and when in the Hearing Examiner's judgment it is necessary or desirable, the Hearing Examiner shall at any time before the hearing record is closed refer to a Committee of the National Academy of Sciences the relevant questions of scientific fact involved in the public hearing. No member of any committee of the National Academy of Sciences established to carry out the functions of this section shall have a financial or

other conflict of interest with respect to any matter considered by such committee. The Committee of the National Academy of Sciences shall report in writing to the Hearing Examiner within 60 days after such referral on these questions of scientific fact. The report shall be made public and shall be considered as part of the hearing record. The Administrator shall enter into appropriate arrangements with the National Academy of Sciences to assure an objective and competent scientific review of the questions presented to Committees of the Academy and to provide such other scientific advisory services as may be required by the Administrator for carrying out the purposes of this subchapter. As soon as practicable after completion of the hearing (including the report of the Academy) but not later than 90 days thereafter, the Administrator shall evaluate the data and reports before him and issue an order either revoking his notice of intention issued pursuant to this section, or shall issue an order either canceling the registration, changing the classification, denying the registration, or requiring modification of the labeling or packaging of the article. Such order shall be based only on substantial evidence of record of such hearing and shall set forth detailed findings of fact upon which the order is based.

(e) Judicial review.

Final orders of the Administrator under this section shall be subject to judicial review pursuant to section 136n of this title. (June 25, 1947, ch. 125, § 6, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 984, and amended Nov. 28, 1975, Pub. L. 94–140, § 1, 89 Stat. 751.)

CODIFICATION

"Subchapter II of chapter 5 of Title 5", referred to in the text, was in the original "subchapter II of Title 5", and has been editorially changed as the probable intent of Congress.

AMENDMENTS

1975—Subsec. (b). Pub. L. 94–140 established criteria which Administrator must use in determining the issuance of a suspension of registration notice and the time periods relating to such notice, set forth required procedures to be followed by Administrator prior to publication of such notice, required procedures when the Secretary elects to comment or fails to comment on suspension notice, waiver or modification of time periods in specified required procedures, required procedures for waiver of notice and consent by Secretary for suspension of registration, and established criteria for Secretary taking any final action.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136a, 136j, 136q, 136w of this title.

§ 136e. Registration of establishments.

(a) Requirement.

No person shall produce any pesticide subject to this subchapter in any State unless the establishment in which it is produced is registered with the Administrator. The application for registration of any establishment shall include the name and address of the establishment and of the producer who operates such establishment.

(b) Registration.

Whenever the Administrator receives an application under subsection (a) of this section, he shall register the establishment and assign it an establishment number.

(c) Information required.

(1) Any producer operating an establishment registered under this section shall inform the Administrator within 30 days after it is registered of the types and amounts of pesticides—

(A) which he is currently producing;

(B) which he has produced during the past year; and

(C) which he has sold or distributed during the past year.

The information required by this paragraph shall be kept current and submitted to the Administrator annually as required under such regulations as the Administrator may prescribe.

(2) Any such producer shall, upon the request of the Administrator for the purpose of issuing a stop sale order pursuant to section 136k of this section, inform him of the name and address of any recipient of any pesticide produced in any registered establishment which he operates.

(d) Confidential records and information.

Any information submitted to the Administrator pursuant to subsection (c) of this section shall be considered confidential and shall be subject to the provisions of section 136h of this title. (June 25, 1947, ch. 125, § 7, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 987.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136j, 136w of this title.

§ 136f. Books and records.

(a) Requirements.

The Administrator may prescribe regulations requiring producers to maintain such records with respect to their operations and the pesticides and devices produced as he determines are necessary for the effective enforcement of this subchapter. No records required under this subsection shall extend to financial data, sales data other than shipment data, pricing data, personnel data, and research data (other than data relating to registered pesticides or to a pesticide for which an application for registration has been filed).

(b) Inspection.

For the purposes of enforcing the provisions of this subchapter, any producer, distributor, carrier, dealer, or any other person who sells or offers for sale, delivers or offers for delivery any pesticide or device subject to this subchapter, shall, upon request of any officer or employee of the Environmental Protection Agency or of any State or political subdivision, duly designated by the Administrator, furnish or permit such person at all reasonable times to have access to, and to copy: (1) all records showing the delivery, movement, or holding of such pesticide or device, including the quantity, the date of

shipment and receipt, and the name of the consignor and consignee; or (2) in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the pesticide or device. Any inspection with respect to any records and information referred to in this subsection shall not extend to financial data, sales data other than shipment data, pricing data, personnel data, and research data (other than data relating to registered pesticides or to a pesticide for which an application for registration has been filed). (June 25, 1947, ch. 125, § 8, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 987.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516 and regulations thereunder, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136j, 136o of this title.

§ 136g. Inspection of establishments, etc.

(a) In general.

For purposes of enforcing the provisions of this subchapter, officers or employees duly designated by the Administrator are authorized to enter at reasonable times, any establishment or other place where pesticides or devices are held for distribution or sale for the purpose of inspecting and obtaining samples of any pesticides or devices, packaged, labeled, and released for shipment, and samples of any containers or labeling for such pesticides or devices.

Before undertaking such inspection, the officers or employees must present to the owner, operator, or agent in charge of the establishment or other place where pesticides or devices are held for distribution or sale, appropriate credentials and a written statement as to the reason for the inspection, including a statement as to whether a violation of the law is suspected. If no violation is suspected, an alternate and sufficient reason shall be given in writing. Each such inspection shall be commenced and completed with reasonable promptness. If the officer or employee obtains any samples, prior to leaving the premises, he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained and, if requested, a portion of each such sample equal in volume or weight to the portion retained. If an analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

(b) Warrants.

For purposes of enforcing the provisions of this subchapter and upon a showing to an officer or court of competent jurisdiction that there is reason to believe that the provisions of this subchapter have been violated, officers or employees duly designated by the Administrator are empowered to obtain and to execute warrants authorizing—

(1) entry for the purpose of this section;

(2) inspection and reproduction of all records showing the quantity, date of shipment, and the name of consignor and consignee of any pesticide or device found in the establishment which is adulterated, misbranded, not registered (in the case of a pesticide) or otherwise in violation of this subchapter and in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the pesticide or device; and

(3) the seizure of any pesticide or device which is in violation of this subchapter.

(c) Enforcement.

(1) Certification of facts to Attorney General.

The examination of pesticides or devices shall be made in the Environmental Protection Agency or elsewhere as the Administrator may designate for the purpose of determining from such examinations whether they comply with the requirements of this subchapter. If it shall appear from any such examination that they fail to comply with the requirements of this subchapter, the Administrator shall cause notice to be given to the person against whom criminal or civil proceedings are contemplated. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to such contemplated proceedings, and if in the opinion of the Administrator it appears that the provisions of this subchapter have been violated by such person, then the Administrator shall certify the facts to the Attorney General, with a copy of the results of the analysis or the examination of such pesticide for the institution of a criminal proceeding pursuant to section 136*l*(b) of this title or a civil proceeding under section 136*l*(a) of this title, when the Administrator determines that such action will be sufficient to effectuate the purposes of this subchapter.

(2) Notice not required.

The notice of contemplated proceedings and opportunity to present views set forth in this subsection are not prerequisites to the institution of any proceeding by the Attorney General.

(3) Warning notices.

Nothing in this subchapter shall be construed as requiring the Administrator to institute proceedings for prosecution of minor violations of this subchapter whenever he believes that the public interest will be adequately served by a suitable written notice of warning.

(June 25, 1947, ch. 125, § 9, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 988.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 136j of this title.

§ 136h. Protection of trade secrets and other information.

(a) In general.

In submitting data required by this subchapter, the applicant may (1) clearly mark any portions thereof which in his opinion are trade secrets or commercial or financial information and (2) submit such marked material separately from other material required to be submitted under this subchapter.

(b) Disclosure.

Notwithstanding any other provisions of this subchapter, the Administrator shall not make public information which in his judgment contains or relates to trade secrets or commercial or financial information obtained from a person and privileged or confidential, except that, when necessary to carry out the provisions of this subchapter, information relating to formulas of products acquired by authorization of this subchapter may be revealed to any Federal agency consulted and may be revealed at a public hearing or in findings of fact issued by the Administrator.

(c) Disputes.

If the Administrator proposes to release for inspection information which the applicant or registrant believes to be protected from disclosure under subsection (b) of this section, he shall notify the applicant or registrant, in writing, by certified mail. The Administrator shall not thereafter make available for inspection such data until thirty days after receipt of the notice by the applicant or registrant. During this period, the applicant or registrant may institute an action in an appropriate district court for a declaratory judgment as to whether such information is subject to protection under subsection (b) of this section. (June 25, 1947, ch. 125, § 10, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 989.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136a, 136e of this title.

§ 136i. Standards applicable to pesticide applicators.

(a) In general.

No regulations prescribed by the Administrator for carrying out the provisions of this subchapter shall require any private applicator to maintain any records or file any reports or other documents.

(b) Separate standards.

When establishing or approving standards for licensing or certification, the Administrator shall establish separate standards for commercial and private applicators. (June 25, 1947, ch. 125, § 11, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 989.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

§ 136j. Unlawful acts.

(a) In general.

(1) Except as provided by subsection (b) of this section, it shall be unlawful for any person in any State to distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person—

(A) any pesticide which is not registered under section 136a of this title, except as provided by section 136d(a)(1) of this title;

(B) any registered pesticide if any claims made for it as a part of its distribution or sale substantially differ from any claims made for it as a part of the statement required in connection with its registration under section 136a of this title;

(C) any registered pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration under section 136a of this title;

(D) any pesticide which has not been colored or discolored pursuant to the provisions of section 136w(c)(5) of this title;

(E) any pesticide which is adulterated or misbranded; or

(F) any device which is misbranded.

(2) It shall be unlawful for any person—

(A) to detach, alter, deface, or destroy, in whole or in part, any labeling required under this subchapter;

(B) to refuse to keep any records required pursuant to section 136f of this title, or to refuse to allow inspection of any records or establishment pursuant to section 136f or 136g of this title, or to refuse to allow an officer or employee of the Environmental Protection Agency to take a sample of any pesticide pursuant to section 136g of this title;

(C) to give a guaranty or undertaking provided for in subsection (b) of this section which is false in any particular, except that a person who receives and relies upon a guaranty authorized under subsection (b) of this section may give a guaranty to the same effect, which guaranty shall contain, in addition to his own name and address, the name and address of the person residing in the United States from whom he received the guaranty or undertaking;

(D) to use for his own advantage or to reveal, other than to the Administrator, or officials or employees of the Environmental Protection Agency or other Federal executive agencies, or to the courts, or to physicians, pharmacists, and other qualified persons, needing such information for the performance of their duties, in accordance with such directions as the Administrator may prescribe, any information acquired by authority of this subchapter which is confidential under this subchapter;

(E) who is a registrant, wholesaler, dealer, retailer, or other distributor to advertise a product registered under this subchapter for restricted use without giving the classification of the product assigned to it under section 136a of this title;

(F) to make available for use, or to use, any registered pesticide classified for restricted use for some or all purposes other than in accordance with section 136a(d) of this title and any regulations thereunder;

(G) to use any registered pesticide in a manner inconsistent with its labeling;

(H) to use any pesticide which is under an experimental use permit contrary to the provisions of such permit;

(I) to violate any order issued under section 136k of this title;

(J) to violate any suspension order issued under section 136d of this title;

(K) to violate any cancellation of registration of a pesticide under section 136d of this title, except as provided by section 136d(a)(1) of this title;

(L) who is a producer to violate any of the provisions of section 136e of this title;

(M) to knowingly falsify all or part of any application for registration, application for experimental use permit, any information submitted to the Administrator pursuant to section 136e of this title, any records required to be maintained pursuant to section 136f of this title, any report filed under this subchapter, or any information marked as confidential and submitted to the Administrator under any provision of this subchapter;

(N) who is a registrant, wholesaler, dealer, retailer, or other distributor to fail to file reports required by this subchapter;

(O) to add any substance to, or take any substance from, any pesticide in a manner that may defeat the purpose of this subchapter; or

(P) to use any pesticide in tests on human beings unless such human beings (i) are fully informed of the nature and purposes of the test and of any physical and mental health consequences which are reasonably foreseeable therefrom, and (ii) freely volunteer to participate in the test.

(b) Exemptions.

The penalties provided for a violation of paragraph (1) of subsection (a) of this section shall not apply to—

(1) any person who establishes a guaranty signed by, and containing the name and address of, the registrant or person residing in the United States from whom he purchased or received in good faith the pesticide in the same unbroken package, to the effect that the pesticide was lawfully registered at the time of sale and delivery to him, and that it complies with the other requirements of this subchapter, and in such case the guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provisions of this subchapter;

(2) any carrier while lawfully shipping, transporting, or delivering for shipment any pesticide or device, if such carrier upon request of any officer or employee duly designated by the Administrator shall permit such officer or employee to copy all of its records concerning such pesticide or device;

(3) any public official while engaged in the performance of his official duties;

(4) any person using or possessing any pesticide as provided by an experimental use permit in effect with respect to such pesticide and such use or possession; or

(5) any person who ships a substance or mixture of substances being put through tests in which the purpose is only to determine its value for pesticide purposes or to determine its toxicity or other properties and from which the user does not expect to receive any benefit in pest control from its use.

(June 25, 1947, ch. 125, § 12, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 989.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

§ 136k. Stop sale, use, removal, and seizure.

(a) Stop sale, etc., orders.

Whenever any pesticide or device is found by the Administrator in any State and there is reason to believe on the basis of inspection or tests that such pesticide or device is in violation of any of the provisions of this subchapter, or that such pesticide or device has been or is intended to be distributed or sold in violation of any such provisions, or when the registration of the pesticide has been canceled by a final order or has been suspended, the Administrator may issue a written or printed "stop sale, use, or removal" order to any person who owns, controls, or has custody of such pesticide or device, and after receipt of such order no person shall sell, use, or remove the pesticide or device described in the order except in accordance with the provisions of the order.

(b) Seizure.

Any pesticide or device that is being transported or, having been transported, remains unsold or in original unbroken packages, or that is sold or offered for sale in any State, or that is imported from a foreign country, shall be liable to be proceeded against in any district court in the district where it is found and seized for confiscation by a process in rem for condemnation if—

(1) in the case of a pesticide—

(A) it is adulterated or misbranded;

(B) it is not registered pursuant to the provisions of section 136a of this title;

(C) its labeling fails to bear the information required by this subchapter;

(D) it is not colored or discolored and such coloring or discoloring is required under this subchapter; or

(E) any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration;

(2) in the case of a device, it is misbranded; or

(3) in the case of a pesticide or device, when used in accordance with the requirements imposed under this subchapter and as directed by the labeling, it nevertheless causes unreasonable adverse effects on the environment. In the case of a plant regulator, defoliant, or desiccant, used in accordance with the label claims and recommendations, physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when such effects are the purpose for which the plant regulator, defoliant, or desiccant was applied.

(c) Disposition after condemnation.

If the pesticide or device is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds,

if sold, less the court costs, shall be paid into the Treasury of the United States, but the pesticide or device shall not be sold contrary to the provisions of this subchapter or the laws of the jurisdiction in which it is sold: *Provided,* That upon payment of the costs of the condemnation proceedings and the execution and delivery of a good and sufficient bond conditioned that the pesticide or device shall not be sold or otherwise disposed of contrary to the provisions of the subchapter or the laws of any jurisdiction in which sold, the court may direct that such pesticide or device be delivered to the owner thereof. The proceedings of such condemnation cases shall conform, as near as may be to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

(d) Court costs, etc.

When a decree of condemnation is entered against the pesticide or device, court costs and fees, storage, and other proper expenses shall be awarded against the person, if any, intervening as claimant of the pesticide or device. (June 25, 1947, ch. 125, § 13, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 991.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136e, 136j of this title.

§ 136*l*. Penalties.

(a) Civil penalties.

(1) In general.

Any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of this subchapter may be assessed a civil penalty by the Administrator of not more than $5,000 for each offense.

(2) Private applicator.

Any private applicator or other person not included in paragraph (1) who violates any provision of this subchapter subsequent to receiving a written warning from the Administrator or following a citation for a prior violation, may be assessed a civil penalty by the Administrator of not more than $1,000 for each offense.

(3) Hearing.

No civil penalty shall be assessed unless the person charged shall have been given notice and opportunity for a hearing on such charge in the county, parish, or incorporated city of the residence of the person charged. In determining the amount of the penalty the Administrator shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation.

(4) References to Attorney General.

In case of inability to collect such civil penalty or failure of any person to pay all, or such portion of such civil penalty as the Administrator may determine, the Administrator shall refer the matter to the Attorney General, who shall recover such amount by action in the appropriate United States district court.

(b) Criminal penalties.

(1) In general.

Any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who knowingly violates any provision of this subchapter shall be guilty of a misdemeanor and shall on conviction be fined not more than $25,000, or imprisoned for not more than one year, or both.

(2) Private applicator.

Any private applicator or other person not included in paragraph (1) who knowingly violates any provision of this subchapter shall be guilty of a misdemeanor and shall on conviction be fined not more than $1,000, or imprisoned for not more than 30 days, or both.

(3) Disclosure of information.

Any person, who, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 136a of this title, shall be fined not more than $10,000, or imprisoned for not more than three years, or both.

(4) Acts of officers, agents, etc.

When construing and enforcing the provisions of this subchapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.

(June 25, 1947, ch. 125, § 14, as added Oct. 21, 1972, Pub L. 92–516, § 2, 86 Stat. 992.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 136g of this title.

§ 136m. Indemnities.

(a) Requirement.

If—

(1) the Administrator notifies a registrant that he has suspended the registration of a pesticide because such action is necessary to prevent an imminent hazard;

(2) the registration of the pesticide is canceled as a result of a final determination that the use of such pesticide will create an imminent hazard; and

(3) any person who owned any quantity of such pesticide immediately before the notice to the registrant under paragraph (1) suffered losses by reason of suspension or cancellation of the registration,

the Administrator shall make an indemnity payment to such person, unless the Administrator finds that such person (i) had knowledge of facts which, in themselves, would have shown that such pesticide did not meet the requirements of section 136a(c)(5) of this title for registration, and (ii) continued thereafter to produce such pesticide without giving timely notice of such facts to the Administrator.

(b) Amount of payment.

(1) In general.

The amount of the indemnity payment under subsection (a) of this section to any person shall be determined on the basis of the cost of the pesticide owned by such person immediately before the notice to the registrant referred to in subsection (a)(1) of this section; except that in no event shall an indemnity payment to any person exceed the fair market value of the pesticide owned by such person immediately before the notice referred to in subsection (a)(1) of this section.

(2) Special rule.

Notwithstanding any other provision of this subchapter the Administrator may provide a reasonable time for use or other disposal of such pesticide. In determining the quantity of any pesticide for which indemnity shall be paid under this subsection, proper adjustment shall be made for any pesticide used or otherwise disposed of by such owner.

(June 25, 1947, ch. 125, § 15, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 993.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

§ 136n. Administrative procedure; judicial review.

(a) District court review.

Except as is otherwise provided in this subchapter, Agency refusals to cancel or suspend registrations or change classifications not following a hearing and other final Agency actions not committed to Agency discretion by law are judicially reviewable in the district courts.

(b) Review by court of appeals.

In the case of actual controversy as to the validity of any order issued by the Administrator following a public hearing, any person who will be adversely affected by such order and who had been a party to the proceedings may obtain judicial review by filing in the United States court of appeals for the circuit wherein such person resides or has a place of business, within 60 days after the entry of such order, a petition praying that the order be set aside in whole or in part. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or any officer designated by him for that purpose, and thereupon the Administrator shall file in the court the record of the proceedings on which he based his order, as provided in section 2112 of Title 28. Upon the filing of such petition the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part. The court shall consider all evidence of record. The order of the Administrator shall be sustained if it is supported by substantial evidence when considered on the record as a whole. The judgment of the court affirming or setting aside, in whole or in part, any order under this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28. The commencement of proceedings under this section shall not, unless specifically ordered by the court to the contrary, operate as a stay of an order. The court shall advance on the docket and expedite the disposition of all cases filed therein pursuant to this section.

(c) Jurisdiction of district courts.

The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this subchapter.

(d) Notice of judgments.

The Administrator shall, by publication in such manner as he may prescribe, give notice of all judgments entered in actions instituted under the authority of this subchapter. (June 25, 1947, ch. 125, § 16, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 994.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 136d of this title.

§ 136o. Imports and exports.

(a) Pesticides and devices intended for export.

Notwithstanding any other provision of this subchapter, no pesticide or device shall be deemed in violation of this subchapter when intended solely for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser, except that producers of such pesticides and devices shall be subject to section 136 of this title.

(b) Cancellation notices furnished to foreign governments.

Whenever a registration, or a cancellation or suspension of the registration of a pesticide becomes effective, or ceases to be effective, the Administrator shall transmit through the State Department notification thereof to the governments of other countries and to appropriate international agencies.

(c) Importation of pesticides and devices.

The Secretary of the Treasury shall notify the Administrator of the arrival of pesticides and devices and shall deliver to the Administrator, upon his request, samples of pesticides or devices which are being imported into the United States, giving notice to the owner or consignee, who may appear before the Administrator and have the right to introduce testimony. If it appears from the examination of a sample that it is adulterated, or misbranded or otherwise violates the provisions set forth in this subchapter, or is otherwise injurious to health or the environment, the pesticide or device may be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any pesticide or device refused delivery which shall not be exported by the consignee within 90 days from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe: *Provided*, That the Secretary of the Treasury may deliver to the consignee such pesticide or device pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such pesticide or device, together with the duty thereon, and on refusal to return such pesticide or device for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them

from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond: *And provided further*, That all charges for storage, cartage, and labor on pesticides or devices which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

(d) Cooperation in international efforts.

The Administrator shall, in cooperation with the Department of State and any other appropriate Federal agency, participate and cooperate in any international efforts to develop improved pesticide research and regulations.

(e) Regulations.

The Secretary of the Treasury, in consultation with the Administrator, shall prescribe regulations for the enforcement of subsection (c) of this section. (June 25, 1947, ch. 125, § 17, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 995.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

§ 136p. Exemption of Federal agencies.

The Administrator may, at his discretion, exempt any Federal or State agency from any provision of this subchapter if he determines that emergency conditions exist which require such exemption. The Administrator, in determining whether or not such emergency conditions exist, shall consult with the Secretary of Agriculture and the Governor of any State concerned if they request such determination. (June 25, 1947, ch. 125, § 18, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 995, and amended Nov. 28, 1975, Pub. L. 94–140, § 8, 89 Stat. 754.)

AMENDMENTS

1975—Pub. L. 94–140 added provision requiring Administrator to consult with Secretary of Agriculture and Governor of State concerned in determining whether an emergency situation exists.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

§ 136q. Disposal and transportation.

(a) Procedures.

The Administrator shall, after consultation with other interested Federal agencies, establish procedures and regulations for the disposal or storage of packages and containers of pesticides and for disposal or storage of excess amounts of such pesticides, and accept at convenient locations for safe disposal a pesticide the registration of which is canceled under section 136d(c) of this title if requested by the owner of the pesticide.

(b) Advice to secretary of transportation.

The Administrator shall provide advice and assistance to the Secretary of Transportation with respect to his functions relating to the transportation of hazardous materials under the Department of Transportation Act, the Transportation of Explosives Act, the Federal Aviation Act of 1958, and the Hazardous Cargo Act. (June 25, 1947, ch. 125, § 19, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 995.)

REFERENCES IN TEXT

The Department of Transportation Act, referred to in subsec. (b), is classified to section 1651 et seq. of Title 49, Transportation.

The Transportation of Explosives Act, referred to in subsec. (b), is classified to section 831 et seq. of Title 18, Crimes and Criminal Procedure.

The Federal Aviation Act of 1958, referred to in subsec. (b), is classified to section 1301 et seq. of Title 49.

The Hazardous Cargo Act, referred to in subsec. (b), is classified to sections 170, 375, and 416 of Title 46, Shipping.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

§ 136r. Research and monitoring.

(a) Research.

The Administrator shall undertake research including research by grant or contract with other Federal agencies, universities, or others as may be necessary to carry out the purposes of this subchapter, and he shall give priority to research to develop biologically integrated alternatives for pest control. The Administrator shall also take care to insure that such research does not duplicate research being undertaken by any other Federal agency.

(b) National monitoring plan.

The Administrator shall formulate and periodically revise, in cooperation with other Federal, State, or local agencies, a national plan for monitoring pesticides.

(c) Monitoring.

The Administrator shall undertake such monitoring activities, including but not limited to monitoring in air, soil, water, man, plants, and animals, as may be necessary for the implementation of this subchapter and of the national pesticide monitoring plan. Such activities shall be carried out in cooperation with other Federal, State, and local agencies. (June 25, 1947, ch. 125, § 20, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 996.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

§ 136s. Solicitation of comments; notice of public hearings.

(a) The Administrator, before publishing regulations under this subchapter, shall solicit the views of the Secretary of Agriculture in accordance with the procedure described in section 136w(a) of this title.

(b) In addition to any other authority relating to public hearings and solicitation of views, in connection with the suspension or cancellation of a pesticide registration or any other actions authorized under this subchapter, the Administrator may, at his discretion, solicit the views of all interested persons, either orally or in writing, and seek such advice from scientists, farmers, farm organizations, and other qualified persons as he deems proper.

(c) In connection with all public hearings under this subchapter the Administrator shall publish timely notice of such hearings in the Federal Register. (June 25, 1947, ch. 125, § 21, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 996, and amended Nov. 28, 1975, Pub. L. 94–140, § 2(b), 89 Stat. 752.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–140 added "in accordance with the procedure described in section 136w(a) of this title" following "Secretary of Agriculture".

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

§ 136t. Delegation and cooperation.

(a) Delegation.

All authority vested in the Administrator by virtue of the provisions of this subchapter may with like force and effect be executed by such employees of the Environmental Protection Agency as the Administrator may designate for the purpose.

(b) Cooperation.

The Administrator shall cooperate with Department of Agriculture, any other Federal agency, and any appropriate agency of any State or any political subdivision thereof, in carrying out the provisions of this subchapter, and in securing uniformity of regulations. (June 25, 1947, ch. 125, § 22, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 996.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

§ 136u. State cooperation, aid, and training.

(a) Cooperative agreements.

The Administrator is authorized to enter into cooperative agreement with States—

(1) to delegate to any State the authority to cooperate in the enforcement of the subchapter through the use of its personnel or facilities, to train personnel of the State to cooperate in the enforcement of this subchapter, and to assist States in implementing cooperative enforcement programs through grants-in-aid; and

(2) to assist State agencies in developing and administering State programs for training and certification of applicators consistent with the standards which he prescribes.

(b) Contracts for training.

In addition, the Administrator is authorized to enter into contracts with Federal or State agencies for the purpose of encouraging the training of certified applicators.

(c) The Administrator may, in cooperation with the Secretary of Agriculture, utilize the services of the Cooperative State Extension Services for informing farmers of accepted uses and other regulations made pursuant to this subchapter. (June 25, 1947, ch. 125, § 23, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 996.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 136b of this title.

§ 136v. Authority of States.

(a) A State may regulate the sale or use of any pesticide or device in the State, but only if and to the extent the regulation does not permit any sale or use prohibited by this subchapter;

(b) such State shall not impose or continue in effect any requirements for labeling and packaging in addition to or different from those required pursuant to this subchapter; and

(c) a State may provide registration for pesticides formulated for distribution and use within that State to meet special local needs if that State is certified by the Administrator as capable of exercising adequate controls to assure that such registration will be in accord with the purposes of this subchapter and if registration for such use has not previously been denied, disapproved, or canceled by the Administrator. Such registration shall be deemed registration under section 136a of this title for all purposes of this subchapter, but shall authorize distribution and use only within such State and shall not be effective for more than 90 days if disapproved by the Administrator within that period. (June 25, 1947, ch. 125, § 24, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 997.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

§ 136w. Authority of Administrator.

(a) Regulations.

(1) Authorization.

The Administrator is authorized, in accordance with the procedure described in paragraph (2), to prescribe regulations to carry out the provisions of this subchapter. Such regulations shall take into account the difference in concept and usage between various classes of pesticides.

(2) Procedure.

(A) Proposed regulations.

At least 60 days prior to signing any proposed regulation for publication in the Federal Register, the Administrator shall provide the Secretary of Agriculture with a copy of such regulation. If the Secretary comments in writing to the Administrator regarding any such regulation within 30 days after receiving it, the Administrator shall publish in the Federal Register (with the proposed regulation) the comments of the Secretary and the response of the Administrator with regard to the Secretary's comments. If the Secretary does not comment in writing to the Administrator regarding the regulation within 30 days after receiving it, the Administrator may sign such regulation for publication in the Federal Register any time after such 30-day period notwithstanding the foregoing 60-day time requirement.

(B) Final regulations.

At least 30 days prior to signing any regulation in final form for publication in the Federal Register, the Administrator shall provide the Secretary of Agriculture with a copy of such regulation. If the Secretary comments in writing to the Administrator regarding any such final regulation within 15 days after receiving it, the Administrator shall publish in the Federal Register (with the final regulation) the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing to the Administrator regarding the regulation within 15 days after receiving it, the Administrator may sign such regulation for publication in the

Federal Register at any time after such 15-day period notwithstanding the foregoing 30-day time requirement.

(C) Time requirements.

The time requirements imposed by subparagraphs (A) and (B) may be waived or modified to the extent agreed upon by the Administrator and the Secretary.

(D) Publication in the Federal Register.

The Administrator shall, simultaneously with any notification to the Secretary of Agriculture under this paragraph prior to the issuance of any proposed or final regulation, publish such notification in the Federal Register.

(3) Congressional committees.

At such time as the Administrator is required under paragraph (2) of this subsection to provide the Secertary of Agriculture with a copy of proposed regulations and a copy of the final form of regulations, he shall also furnish a copy of such regulations to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate.

(b) Exemption of pesticides.

The Administrator may exempt from the requirements of this subchapter by regulation any pesticide which he determines either (1) to be adequately regulated by another Federal agency, or (2) to be of a character which is unnecessary to be subject to this subchapter in order to carry out the purposes of this subchapter.

(c) Other authority.

The Administrator, after notice and opportunity for hearing, is authorized—

(1) to declare a pest any form of plant or animal life (other than man and other than bacteria, virus, and other micro-organisms on or in living man or other living animals) which is injurious to health or the environment;

(2) to determine any pesticide which contains any substance or substances in quantities highly toxic to man;

(3) to establish standards (which shall be consistent with those established under the authority of the Poison Prevention Packaging Act) with respect to the package, container, or wrapping in which a pesticide or device is enclosed for use or consumption, in order to protect children and adults from serious injury or illness resulting from accidental ingestion or contact with pesticides or devices regulated by this subchapter as well as to accomplish the other purposes of this subchapter;

(4) to specify those classes of devices which shall be subject to any provision of paragraph 2(q)(1) or section 136e of this title upon his determination that application of such provision is necessary to effectuate the purposes of this subchapter;

(5) to prescribe regulations requiring any pesticide to be colored or discolored if he determines that such requirement is feasible and is necessary for the protection of health and the environment; and

(6) to determine and establish suitable names to be used in the ingredient statement.

(d) Scientific advisory panel.

The Administrator shall submit to an advisory panel for comment as to the impact on health and the environment of the action proposed in notices of intent issued under section 136d(b) of this title and of the proposed and final form of regulations issued under subsection (a) of this section within the same time periods as provided for the comments of the Secretary of Agriculture under such section 136d(b) and subsection (a) of this section. The time requirements for notices of intent and proposed and final forms of regulation may not be modified or waived unless in addition to meeting the requirements of section 136d(b) of this title or subsection (a) of this section, as applicable, the advisory panel has failed to comment on the proposed action within the prescribed time period or has agreed to the modification or waiver. The comments of the advisory panel and the response of the Administrator shall be published in the Federal Register in the same manner as provided for publication of the comments of the Secretary of Agriculture under such section 136d(b) and subsection (a) of this section. The panel referred to in this subsection shall consist of seven members appointed by the Administrator from a list of 12 nominees, six nominated by the National Institutes of Health, and six by the National Science Foundation. The Administrator may require such information from the nominees to the advisory panel as he deems necessary, and he shall publish in the Federal Register the name, address, and professional affiliations of each nominee. Each member of the panel shall receive per diem compensation at a rate not in excess of that fixed for GS–18 of the General Schedule as may be determined by the Administrator, except that any such member who holds another office or position under the Federal Government the compensation for which exceeds such rate may elect to receive compensation at the rate provided for such other office or position in lieu of the compensation provided by this subsection. In order to assure the objectivity of the advisory panel, the Administrator shall promulgate regulations regarding conflicts of interest with respect to the members of the panel. (June 25, 1947, ch. 125, § 25, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 997, and amended Nov. 28, 1975, Pub. L. 94–140, §§ 2(a), 6, 7, 89 Stat. 751, 753.)

REFERENCES IN TEXT

The Poison Prevention Packaging Act, referred to in subsec. (c)(3), is classified to section 1471 et seq. of Title 15, Commerce and Trade.

GS–18 of the General Schedule, referred to in subsec. (d), is classified to section 5332 of Title 5, Government Organization and Employees.

CODIFICATION

"Paragraph 2(q)(1)", referred to in subsec. (c)(4), does not conform to any provision of this subchapter as enacted by Pub. L. 92–516. Such reference, however, as the probable intent of Congress, might be construed to refer to "section" 2(q)(1) which has been classified to section 136(q)(1) of this title.

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 94–140, § 2(a) (1), (2), redesignated existing provision as subsec. (a)(1), and, as so redesignated, added ", in accordance with the procedure described in paragraph (2)," following "is authorized".

Subsec. (a)(2). Pub. L. 94–140, § 2(a)(3), added subsec. (a)(2).
Subsec. (a)(3). Pub. L. 94–140, § 6, added subsec. (a)(3).
Subsec. (d). Pub. L. 94–140, § 7, added subsec. (d).

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136d, 136j, 136s, of this title.

§ 136x. Severability.

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this subchapter which can be given effect without regard to the invalid provision or application, and to this end the provisions of this subchapter are severable. (June 25, 1947, ch. 125, § 26, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 998.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

§ 136y. Authorization for appropriations.

There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter for each of the fiscal years ending June 30, 1972, June 30, 1974, and June 30, 1975. The amounts authorized to be appropriated for any fiscal year ending after June 30, 1975, shall be the sums hereafter provided by law. There is hereby authorized to be appropriated to carry out the provisions of this subchapter for the period beginning July 1, 1975, and ending September 30, 1975, the sum of $11,967,000. There is hereby authorized to be appropriated to carry out the provisions of this subchapter for the period beginning October 1, 1975, and ending November 15, 1975, the sum of $5,983,500. There are hereby authorized to be appropriated to carry out the provisions of this subchapter for the period beginning October 1, 1975, and ending September 30, 1976, the sum of $47,868,000, and for the period beginning October 1, 1976, and ending March 31, 1977, the sum of $23,600,000. (June 25, 1947, ch. 125. § 27, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 998, and amended July 2, 1975, Pub. L. 94–51, 89 Stat. 257; Oct. 10, 1975, Pub. L. 94–109, 89 Stat. 571; Nov. 28, 1975, Pub. L. 94–140, § 3, 89 Stat. 752.)

AMENDMENTS

1975—Pub. L. 94–140 authorized the appropriation of $47,868,000 to carry out the provisions of this subchapter for the period beginning October 1, 1975, and ending September 30, 1976, and $23,600,000 for period beginning October 1, 1976, and ending March 31, 1977.

Pub. L. 94–109 added provisions authorizing appropriation of $5,983,500 for the period beginning October 1, 1975 and ending November 15, 1975.

Pub. L. 94–51 authorized the appropriation of $11,967,000 to carry out the provisions of this subchapter for the period beginning July 1, 1975, and ending September 30, 1975.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

Chapter 7B.—PLANT PESTS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2811 of this title.

Chapter 8.—NURSERY STOCK AND OTHER PLANTS AND PLANT PRODUCTS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2811 of this title.

§§ 151 to 154, 156 to 161, 162 to 164a.

SECTIONS REFERRED TO IN D.C. CODE

These sections are referred to in section 6–905 of the District of Columbia Code.

Chapter 9.—PACKERS AND STOCKYARDS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 15 section 1691c.

§ 194. Conclusiveness of order; appeal and review; temporary and final injunction.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 21 sections 1036, 1047.

§ 210. Proceedings before Secretary for violations generally; action to enforce orders.

ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Secretary of Agriculture under this chapter, except orders issued under subsec. (e) of this section and section 217a of this title, see section 2342(2) of Title 28 Judiciary and Judicial Procedure.

§ 217a. Brand inspection fees by registered market agencies.

ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Secretary of Agriculture under this chapter, except orders issued under section 210(e) of this title and this section, see section 2342(2) of Title 28, Judiciary and Judicial Procedure.

§§ 226, 227.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in title 15 section 1691c.

Chapter 10.—WAREHOUSES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 7a of this title.

Chapter 13.—AGRICULTURAL AND MECHANICAL COLLEGES

COLLEGE-AID ANNUAL APPROPRIATION

Sec.
326a. Annual appropriation for Virgin Islands and Guam [New].

COLLEGE-AID LAND APPROPRIATION

§ 301. Land grant aid of colleges.

COLLEGE OF THE VIRGIN ISLANDS AND UNIVERSITY OF GUAM; LAND-GRANT STATUS; AUTHORIZATION OF APPROPRIATIONS

Section 506(a), (b) of Pub. L. 92–318, title V, June 23, 1972, 86 Stat. 350, provided that:

"(a) The College of the Virgin Islands and the University of Guam shall be considered land-grant colleges established for the benefit of agriculture and mechanic arts in accordance with the provisions of the Act of July 2, 1862, as amended (12 Stat. 503; 7 U.S.C. 301–305, 307, 308).

"(b) In lieu of extending to the Virgin Islands and Guam those provisions of the Act of July 2, 1862, as amended, relating to donations of public land or land scrip for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, there is authorized to be appropriated $3,000,000 to the Virgin Islands and $3,000,000 to Guam. Amounts appropriated pursuant to this section shall be held and considered to have been granted to the Virgin Islands and Guam subject to the provisions of that Act applicable to the proceeds from the sale of land or land scrip."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2664 of this title; title 22 section 2220a; title 42 section 1476.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31–1607, 31–1608, 31–1609, 31–1611, 31–1701, 31–1718 of the District of Columbia Code.

§§ 302 to 305, 307, 308.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 2664 of this title; title 22 section 2220a; title 42 section 1476.

SECTIONS REFERRED TO IN D.C. CODE

These sections are referred to in sections 31–1607, 31–1608, 31–1609, 31–1611, 31–1701, 31–1718 of the District of Columbia Code.

COLLEGE-AID ANNUAL APPROPRIATION

§ 321. Secretary of Health, Education, and Welfare to administer annual college-aid appropriation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2664 of this title; title 22 section 2220a.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31–1607, 31–1718 of the District of Columbia Code.

§§ 322 to 326.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 326a, 2664 of this title; title 22 section 2220a.

SECTIONS REFERRED TO IN D.C. CODE

These sections are referred to in sections 31–1607, 31–1718 of the District of Columbia Code.

§ 326a. Annual appropriation for Virgin Islands and Guam.

There is authorized to be appropriated annually for payment to the Virgin Islands and Guam the amount they would receive under sections 322 to 326a and 328 of this title if they were States. Sums appropriated under this section shall be treated in the same manner and be subject to the same provisions of law, as would be the case if they had been appropriated by section 322 of this title. (Aug. 30, 1890, ch. 841, § 5, as added June 23, 1972, Pub. L. 92–318, title V, § 506(c), 86 Stat. 350.)

CODIFICATION

"Appropriated by section 322 of this title" was substituted for "appropriated by the first sentence of this Act". The first sentence of Act Aug. 30, 1890, is classified to sections 322 and 323 of this title, but section 322 only contains the appropriation provision.

EFFECTIVE DATE

Section 506(n) of Pub. L. 92–318 provided that: "The amendments made by this section [enacting this section, amending sections 329, 331, 343(b), 349, 361a, 361c(b), and 1626 of this title and sections 582a–3 and 582a–7 of Title 16, and enacting provisions set out as notes under this section and section 301 of this title] shall be effective after June 30, 1970."

STATE CONSENT

Section 506(m) of Pub. L. 92–318 provided that: "With respect to the Virgin Islands and Guam, the enactment of this section [see Effective Date note hereunder] shall be deemed to satisfy any requirement of State consent contained in laws or provisions of law referred to in this section [see Effective Date note hereunder]."

§ 328. Power to amend, repeal, etc., reserved.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 326a, 2664 of this title; title 22 sectino 2220a.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31–1607, 31–1718 of the District of Columbia Code.

§ 329. Additional appropriation for agricultural colleges.

In order to provide for the more complete endowment and support of the colleges in the several States, Puerto Rico, the Virgin Islands, and Guam entitled to the benefits of sections 301 to 305, 307, 308, 321 to 326 and 328 of this title, there are authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriated, the following amounts:

(a) for the first fiscal year beginning after the date of enactment of this Act, and for each fiscal year thereafter, $8,100,000; and

(b) For the first fiscal year beginning after the date of enactment of this Act, and for each fiscal year thereafter, $4,360,000.

The sums appropriated in pursuance of paragraph (a) of this section shall be paid annually to the several States, Puerto Rico, the Virgin Islands, and Guam in equal shares. The sums appropriated in pursuance of paragraph (b) of this section shall be in addition to sums appropriated in pursuance of paragraph (a) of this section and shall be allotted and paid annually to each of the several States, Puerto Rico, the Virgin Islands, and Guam in the proportion to which the total population of each State and Puerto Rico, bears to the total population of all the States, Puerto Rico, the Virgin Islands, and Guam as determined by the last preceding decennial census. Sums appropriated in pursuance of this section shall be in addition to sums appropriated or authorized under sections 301 to 305, 307, 308, 321 to 326 and 328 of this title, and shall be applied only for the purposes of the colleges defined in such sections. The provisions of law applicable to the use and payment of sums under sections 321 to 326 and 328 of this title shall apply to the use and payment of sums appropriated in pursuance of this section. (As amended June 23, 1972, Pub. L. 92–318, title V, § 506(d), 86 Stat. 350.)

REFERENCES IN TEXT

The words "date of enactment of this Act" appear in par. (a) of section 22 of act June 29, 1935, which was approved on June 29, 1935, and also in pars. (a) and (b) of section 22 of act June 29, 1935, as amended by Pub. L. 86–658, which was approved on July 14, 1960.

AMENDMENTS

1972—Pub. L. 92–318 inserted references to Virgin Islands and Guam, and substituted "$8,100,000" and "$4,360,000" for "$7,800,000" and "$4,320,000", respectively.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–318 effective after June 30, 1970, see section 506(n) of Pub. L. 92–318, set out as a note under section 326a of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31–1607, 31–1718 of the District of Columbia Code.

RETIREMENT OF EMPLOYEES

§ 331. Retirement of land-grant college employees.

Pursuant to the recognized obligations of governments to guarantee the social security of their employees and in order to provide for the retirement on an annuity, or otherwise, of all persons being paid

salaries in whole or in part from grants of Federal funds to the several States, Puerto Rico, the Virgin Islands, and Guam pursuant to the terms of the Act approved July 2, 1862, for the endowment and support of colleges of agriculture and mechanic arts. and Acts supplementary thereto providing for instruction in agriculture and mechanic arts, for the establishment of agricultural experiment stations, and for cooperative extension work in agriculture and home economics, all States, Puerto Rico, the Virgin Islands, and Guam are hereafter authorized, notwithstanding any contrary provisions in said Acts, to withhold from expenditure, from Federal funds advanced under the terms of said Acts, amounts designated as employer contributions to be made by the States, Puerto Rico, the Virgin Islands, or Guam to retirement systems established in accordance with the laws of such States, Puerto Rico, the Virgin Islands, or Guam, or established by the governing boards of colleges of agriculture and mechanic arts in accordance with the authority vested in them, and to deposit such amounts to the credit of such retirement systems for subsequent disbursement in accordance with the terms of the retirement systems in effect in the respective States, Puerto Rico, the Virgin Islands, and Guam: *Provided,* That there shall not be deducted from Federal funds and deposited to the credit of retirement accounts as employer contributions, amounts in excess of 5 per centum of that portion of the salaries of employees paid from such Federal funds: *Provided further,* That, for the purpose of making deposits and contributions in retirement systems in favor of any employee, in no event shall the deductions from any Federal fund advanced pursuant to the foregoing Acts be in greater proportion to the total deductions for such employee than the salary received under such Federal funds bears to the total salary from Federal sources: *Provided further,* That the deposits and contributions from funds of Federal origin to any retirement system established by a State, Puerto Rico, the Virgin Islands, or Guam or a land-grant college must be at least equaled by the total contributions thereto on the part of the individuals concerned, the State, and the counties: *And provided further,* That no deductions for the foregoing purposes shall be made from Federal funds in support of employees appointed pursuant to the terms of the foregoing Acts, whose salaries are paid wholly by the States, Puerto Rico, the Virgin Islands, or Guam: *Provided further,* That the provisions of this section shall not apply to any employee paid in whole or in part from Federal funds who may be subject to subchapter III of chapter 83 of title 5. (As amended June 23, 1972, Pub. L. 92–318, title V, § 506(e), 86 Stat. 351.)

REFERENCES IN TEXT

The Act approved July 2, 1862, referred to in text, is classified to sections 301 to 305, 307 and 308 of this title.

CODIFICATION

"Subchapter III of chapter 83 of Title 5" was substituted for "United States Civil Service Retirement Act, as amended" on authority of sections 7 and 8 of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, 632, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1972—Pub. L. 92–318 substituted ", Puerto Rico, the Virgin Islands, and Guam" and ", Puerto Rico, the Virgin Islands, or Guam" for "and Territories" and "or Territories" wherever appearing and inserted in third proviso reference to Puerto Rico, Virgin Islands, and Guam.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–318 effective after June 30, 1970, see section 506(n) of Pub. L. 92–318, set out as a note under section 326a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 361d of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31–1607, 31–1718 of the District of Columbia Code.

AGRICULTURAL EXTENSION WORK APPROPRIATION

SECTIONS REFERRED TO IN OTHER SECTIONS

Sections 341–343, 344–346, 347a–349 are referred to in sections 343, 2664 of this title.

SECTIONS REFERRED TO IN D.C. CODE

Sections 341–343, 344–346, 347a–349 are referred to in sections 31–1609, 31–1718 of the District of Columbia Code.

§ 343. Appropriations; distribution; allotment and apportionment; Federal Extension Service.

* * * * *

(b) (1) Out of such sums, each State and the Federal Extension Service shall be entitled to receive annually a sum of money equal to the sums available from Federal cooperative extension funds for the fiscal year 1962, and subject to the same requirements as to furnishing of equivalent sums by the State, except that amounts heretofore made available to the Secretary for allotment on the basis of special needs shall continue available for use on the same basis.

(2) There is authorized to be appropriated for the fiscal year ending June 30, 1971, and for each fiscal year thereafter, for payment to the Virgin Islands and Guam, $100,000 each, which sums shall be in addition to the sums appropriated for the several States of the United States and Puerto Rico under the provisions of this section. The amount paid by the Federal Government to the Virgin Islands and Guam pursuant to this paragraph shall not exceed during any fiscal year, except the fiscal years ending June 30, 1971, and June 30, 1972, when such amount may be used to pay the total cost of providing services pursuant to sections 341 to 343, 344 to 346, and 347a to 349 of this title, the amount available and budgeted for expenditure by the Virgin Islands and Guam for the purposes of such sections.

* * * * *

(As amended June 23, 1972, Pub. L. 92–318, title V, § 506(g), 86 Stat. 351.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–318 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–318 effective after June 30, 1970, see section 506(n) of Pub. L. 92–318, set out as a note under section 326a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 418 of this title; title 39 section 3202.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1609, 31-1718 of the District of Columbia Code.

§ 349. "State" defined.

The term "State" means the States of the Union, Puerto Rico, the Virgin Islands, and Guam. (As amended June 23, 1972, Pub. L. 92-318, title V, § 506 (h), 86 Stat. 351.)

AMENDMENTS

1972—Pub. L. 92-318 inserted reference to Virgin Islands and Guam.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-318 effective after June 30, 1970, see section 506(n) of Pub. L. 92-318, set out as a note under section 326a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 418 of this title.

Chapter 14.—AGRICULTURAL EXPERIMENT STATIONS

SECTIONS REFERRED TO IN OTHER SECTIONS

Sections 361a to 361i are referred to in section 2664 of this title.

§ 361a. Congressional declaration of purpose; definitions.

It is the policy of Congress to continue the agricultural research at State agricultural experiment stations which has been encouraged and supported by the Hatch Act of 1887, the Adams Act of 1906, the Purnell Act of 1925, the Bankhead-Jones Act of 1935, and title I, section 9, of that Act as added by the Act of August 14, 1946, and Acts amendatory and supplementary thereto, and to promote the efficiency of such research by a codification and simplification of such laws. As used in sections 361a to 361i of this title, the terms "State" or "States" are defined to include the several States (including the District of Columbia), Alaska, Hawaii, Puerto Rico, Guam and the Virgin Islands. As used in sections 361a to 361i of this title, the term "State agricultural experiment station" means a department which shall have been established, under direction of the college or university or agricultural departments of the college or university in each State in accordance with sections 301 to 305, 307, and 308 of this title; or such other substantially equivalent arrangements as any State shall determine. (As amended June 23, 1972, Pub. L. 92-318, title V, § 506(k), 86 Stat. 351; Oct. 26, 1974, Pub. L. 93-471, title II, § 208(e), 88 Stat. 1429.)

AMENDMENTS

1974—Pub. L. 93-471 defined "State" to include the District of Columbia.

1972—Pub. L. 92-318 defined "State" to include Guam and the Virgin Islands.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-471 effective July 1, 1975, unless Pub. L. 93-471 repealed by District of Columbia Council after Jan. 2, 1975, and prior to July 1, 1975; or such amendment by Pub. L. 93-471, as amended by the District Council, also effective July 1, 1975, or some other date prescribed by the Council as authorized under provisions of section 407 of Pub. L. 93-471.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-318 effective after June 30, 1970, see section 506(n) of Pub. L. 92-318, set out as a note under section 326a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 418 of this title.

§ 361c. Appropriations and allotments of grants.

* * * * * *

(b) Allotments to States; authorization of appropriations for Virgin Islands and Guam; limitation.

(1) Out of such sums each State shall be entitled to receive annually a sum of money equal to and subject to the same requirement as to use for marketing research projects as the sums received from Federal appropriations for State agricultural experiment stations for the fiscal year 1955, except that amounts heretofore made available from the fund known as the "Regional research fund, Office of Experiment Stations" shall continue to be available for the support of cooperative regional projects as defined in subsection (c) (3) of this section, and the said fund shall be designated "Regional research fund, State agricultural experiment stations," and the Secretary of Agricultural shall be entitled to receive annually for the administration of sections 361a to 361i of this title, a sum not less than that available for this purpose for the fiscal year ending June 30, 1955: *Provided*, That if the appropriations hereunder available for distribution in any fiscal year are less than those for the fiscal year 1955 the allotment to each State and the amounts for Federal administration and the regional research fund shall be reduced in proportion to the amount of such reduction.

(2) There is authorized to be appropriated for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, for payment to the Virgin Islands and Guam, $100,000 each, which sums shall be in addition to the sums appropriated for the several States of the United States and Puerto Rico under the provisions of this section. The amount paid by the Federal Government to the Virgin Islands and Guam pursuant to this paragraph shall not exceed during any fiscal year, except the fiscal years ending June 30, 1971, and June 30, 1972, when such amount may be used to pay the total cost of providing services pursuant to sections 361a to 361i of this title, the amount available and budgeted for expenditure by the Virgin Islands and Guam for the purposes of such sections.

* * * * * *

(As amended June 23, 1972, Pub. L. 92-318, title V, § 506(*l*), 86 Stat. 351.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92-318 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-318 effective after June 30, 1970, see section 506(n) of Pub. L. 92-318, set out as a note under section 326a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361e, 418 of this title.

Chapter 17.—MISCELLANEOUS MATTERS

Sec.

428b. Wheat and feed grains research; regional and national research programs; utilization of services of Federal, State and private agencies; authorization of appropriations [New].

§ 411b. Estimates of apple production.

REPEATED

Pub. L. 92–73, title I, § 101, Aug. 10, 1971, 85 Stat. 187; Pub. L. 92–399, title I, § 101, Aug. 22, 1972, 86 Stat. 596; Pub. L. 93–135, title I, § 101, Oct. 24, 1973, 87 Stat. 474; Pub. L. 93–563, title I, § 101, Dec. 31, 1974, 88 Stat. 1326; Pub. L. 94–122, title I, § 101, Oct. 21, 1975, 89 Stat. 648.

§ 428b. Wheat and feed grains research; regional and national research programs; utilization of services of Federal, State and private agencies; authorization of appropriations.

In order to reduce fertilizer and herbicide usage in excess of production needs, to develop wheat and feed grain varieties more susceptible to complete fertilizer utilization, and to improve the resistance of wheat and feed grain plants to disease and to enhance their conservation and environmental qualities, the Secretary of Agriculture is authorized and directed to carry out regional and national research programs.

In carrying out such research, the Secretary shall utilize the technical and related services of the appropriate Federal, State, and private agencies.

There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not more than $1,000,000 in any fiscal year. (Pub. L. 91–524, title VIII, § 810, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 238.)

§ 435. Omitted.

CODIFICATION

Section, which made inapplicable provisions of law prohibiting or restricting employment of aliens to employment under the appropriations for the Foreign Agricultural Service, was from the Department of Agriculture Appropriation Act, 1974, Pub. L. 93–135. Similar provisions were contained in prior appropriation acts. Section was not repeated in the Department of Agriculture Appropriaton Act, 1975, accordingly, section is omitted from this Code. For present provisions covering employment of aliens generally, see section 699b of Title 31, Money and Finance.

Section was based on acts July 30, 1947, ch. 356, title I, § 4, 61 Stat. 548; June 19, 1948, ch. 543, title I, § 4, 62 Stat. 530; June 2, 1949, ch. 280, title III, § 302, 63 Stat. 348; Sept. 6, 1950, ch. 896, ch. VI, title IV, § 402, 64 Stat. 679; Aug. 31, 1951, ch. 374, title IV, § 402, 65 Stat. 245; July 5, 1952, ch. 574, title IV, § 402, 66 Stat. 355; July 28, 1953, ch. 251, title IV § 402, 67 Stat. 224; June 29, 1954, ch. 409, title V, § 502, 68 Stat. 318; May 23, 1955, ch. 43, title V, § 502, 69 Stat. 63; June 4, 1956, ch. 355, title V, § 502, 70 Stat. 240; Aug. 2, 1957, Pub. L. 85–118, title V, § 502, 71 Stat. 340; June 13, 1958, Pub. L. 85–459, title IV, § 402, 72 Stat. 199; July 8, 1959, Pub. L. 86–80, title IV, § 402, 73 Stat. 179; June 29, 1960, Pub. L. 86–532, title IV, § 402, 74 Stat. 244; July 26, 1961, Pub. L. 87–112, title V, § 502, 75 Stat. 240; Oct. 24, 1962, Pub. L. 87–879, title VI, § 602, 76 Stat. 1215; Dec. 30, 1963, Pub. L. 88–250, title VI, § 602, 77 Stat. 833; Sept. 2, 1964, Pub. L. 88–573, title V, § 502, 78 Stat. 876; Nov. 2, 1965, Pub. L. 89–316, title V, § 502, 79 Stat. 1179; Sept. 7, 1966, Pub. L. 89–556, title V, § 502, 80 Stat. 703; Oct. 24, 1967, Pub. L. 90–113, title V. § 502, 81 Stat. 334; Aug. 8, 1968, Pub. L. 90–463, title V, § 502, 82 Stat. 653; Nov. 26, 1969, Pub. L. 91–127, title V, § 502, 83 Stat. 260; Dec. 22, 1970, Pub. L. 91–566, title V, § 502, 84 Stat. 1496; Aug. 10, 1971, Pub. L. 92–73, title V, § 502, 85 Stat. 201; Aug. 22, 1972, Pub. L. 92–399, title V, § 502, 86 Stat. 611; Oct. 24, 1973, Pub. L. 93–135, title V, § 502, 87 Stat. 489.

§ 450i. Indemnity payments to dairy farmers and manufacturers of dairy products; milk removed for its chemical residue content.

The Secretary of Agriculture is authorized to make indemnity payments for milk or cows producing such milk at a fair market value, to dairy farmers who have been directed since January 1, 1964 (but only since August 10, 1973, in the case of indemnity payments not authorized prior to August 10, 1973), to remove their milk, and to make indemnity payments for dairy products at fair market value to manufacturers of dairy products who have been directed since November 30, 1970, to remove their dairy products from commercial markets because of residues of chemicals registered and approved for use by the Federal Government at the time of such use. Any indemnity payment to any farmer shall continue until he has been reinstated and is again allowed to dispose of his milk on commercial markets. (As amended Pub. L. 93–86, § 1(5)(B), Aug. 10, 1973, 87 Stat. 223.)

AMENDMENTS

1973—Pub. L. 93–86 inserted "for milk or cows producing such milk" following "The Secretary of Agriculture is authorized to make indemnity payments" and "(but only since August 10, 1973, in the case of indemnity payments not authorized prior to August 10, 1973)" following "January 1, 1964" and substituted ", and to make indemnity payments for dairy products at fair market value to" for "and" following "remove their milk" and "of" for "it contained" preceding "residues of chemicals".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 450k, 450l of this title.

§ 450*l*. Expiration of dairy farmer indemnity program.

The authority granted under sections 450j to 450*l* of this title shall expire on June 30, 1977. (As amended Pub. L. 93–86, § 1(5)(A), Aug. 10, 1973, 87 Stat. 223.)

AMENDMENTS

1973—Pub. L. 93–86 substituted "June 30, 1977" for "June 30, 1973".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 450k of this title.

Chapter 19.—COTTON STATISTICS AND ESTIMATES

§ 475. Cotton crop reports.

The Secretary of Agriculture shall cause to be issued as of the first of each month during the cotton growing and harvesting season from August to January inclusive, reports describing the condition and progress of the crop and stating the probable number of bales which will be ginned, these reports to be issued simultaneously with the cotton ginning reports of the Bureau of the Census relating to the same dates, the two reports to be issued from the same place at 3 o'clock postmeridian on or before the 12th day of the month to which the respective reports relate. No such report shall be approved and released by the Secretary of Agriculture until it shall have been passed upon by a cotton crop reporting board consisting of five members or more to be designated by him. Not less than three members of the board shall be supervisory field statisticians of the Department of Agriculture who are located in different sections of the cotton-growing States, are experienced in estimating cotton production, and have first-hand knowledge of the condition of the cotton crop based upon recent field observations. A majority of the members of the board shall be familiar with the methods and practices of produc-

ing cotton. (As amended June 30, 1972, Pub. L. 92–331, § 1, 86 Stat. 400.)

AMENDMENTS

1972—Pub. L. 92–331 substituted "January" for "December", substituted provisions requiring the two reports to be issued from the same place at 3 o'clock postmeridian on or before the 12th day of the month to which the respective reports relate for provisions requiring the two reports to be issued from the same place at 11 o'clock antemeridian on the 8th day following that on which the respective reports relate, struck out provisions setting forth the date of release in the event the original release date falls on a Sunday, legal holiday, or other nonworkday in the Department of Agriculture at Washington, and struck out reference to cotton-crop reporting committee.

§ 476. Acreage reports.

The Secretary of Agriculture shall cause to be issued a report on or before the 12th day of July of each year showing by States and in toto the estimated acreage of cotton planted, to be followed on or before the 12th day of August with an estimate of the acreage for harvest and on or before the 12th day of December with an estimate of the harvested acreage. (As amended June 30, 1972, Pub. L. 92–331, § 2, 86 Stat. 400.)

AMENDMENTS

1972—Pub. L. 92–331 substituted "12th" for "10th", "on or before the 12th day of August" for "on August 1", and "on or before the 12th day of December" for "on December 1".

Chapter 20A.—PERISHABLE AGRICULTURAL COMMODITIES

§ 499b. Unfair conduct.

It shall be unlawful in or in connection with any transaction in interstate or foreign commerce—

* * * * *

(5) For any commission merchant, dealer, or broker to misrepresent by word, act, mark, stencil, label, statement, or deed, the character, kind, grade, quality, quantity, size, pack, weight, condition, degree of maturity, or State, country, or region of origin of any perishable agricultural commodity received, shipped, sold, or offered to be sold in interstate or foreign commerce: *Provided*, That any commission merchant, dealer, or broker who has violated this subsection may, with the consent of the Secretary, admit the violation or violations and pay a monetary penalty not to exceed $2,000 in lieu of a formal proceeding for the suspension or revocation of license, any payment so made to be deposited into the Treasury of the United States as miscellaneous receipts;

* * * * *

(As amended Aug. 10, 1974, Pub. L. 93–369, 88 Stat. 423.)

AMENDMENTS

1974—Subsec. (5). Pub. L. 93–369 added proviso for consent admission of violations, payment of monetary penalty not in excess of $2,000 in lieu of formal proceedings for suspension or revocation of license, and for deposit of the payments into the Treasury of the United States as miscellaneous receipts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499d, 499e, 499f, 499g, 499h of this title.

§ 499f. Complaint and investigation.

* * * * *

(c) Service of complaint; hearing.

If there appear to be, in the opinion of the Secretary, any reasonable grounds for investigating any complaint made under this section, the Secretary shall investigate such complaint and may, if in his opinion the facts warrant such action, have said complaint served by registered mail or by certified mail or otherwise on the person concerned and afford such person an opportunity for a hearing thereon before a duly authorized examiner of the Secretary in any place in which the said person is engaged in business: *Provided*, That in complaints wherein the amount claimed as damages does not exceed the sum of $3,000, a hearing need not be held and proof in support of the complaint and in support of respondent's answer may be supplied in the form of depositions or verified statements of fact.

(d) Determination by Secretary of violations.

After opportunity for hearing on complaints where the damages claimed exceed the sum of $3,000 has been provided or waived and on complaints where damages claimed do not exceed the sum of $3,000 not requiring hearing as provided herein, the Secretary shall determine whether or not the commission merchant, dealer, or broker has violated any provision of section 499b of this title.

* * * * *

(As amended Feb. 15, 1972, Pub. L. 92–231, § 1, 86 Stat. 38.)

AMENDMENTS

1972—Subsec. (c). Pub. L. 92–231 substituted "$3,000" for "1,500".

Subsec. (d). Pub. L. 92–231 substituted "$3,000" for "$1,500" wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499g, 499h of this title.

§ 499g. Reparation order.

(a) Determination by Secretary of Agriculture of amount of damages; order for payment.

If after a hearing on a complaint made by any person under section 499f of this title, or without hearing as provided in subsections (c) and (d) of section 499f of this title, or upon failure of the party complained against to answer a complaint duly served within the time prescribed, or to appear at a hearing after being duly notified, the Secretary determines that the commission merchant, dealer, or broker has violated any provision of section 499b of this title, he shall, unless the offender has already made reparation to the person complaining, determine the amount of damage, if any, to which such person is entitled as a result of such violation and shall make an order directing the offender to pay to such person complaining such amount on or before the date fixed in the order. The Secretary shall order any commission merchant, dealer, or broker who is the losing party to pay the prevailing party, as reparation or additional reparation, reasonable fees and expenses incurred in connection with any such hearing. If, after the respondent has filed his answer to the complaint, it appears therein that the respondent has admitted liability for a portion of the amount

claimed in the complaint as damages, the Secretary under such rules and regulations as he shall prescribe, unless the respondent has already made reparation to the person complaining, may issue an order directing the respondent to pay to the complainant the undisputed amount on or before the date fixed in the order, leaving the respondent's liability for the disputed amount for subsequent determination. The remaining disputed amount shall be determined in the same manner and under the same procedure as it would have been determined if no order had been issue by the Secretary with respect to the undisputed sum:

* * * * *

(As amended Feb. 15, 1972, Pub. L. 92-231, § 2, 86 Stat. 38.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-231 directed the Secretary to order commission merchants, dealers, or brokers who are the losing party to pay the prevailing party, as reparation or additional reparation, reasonable fees and expenses incurred in connection with hearings.

ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Secretary of Agriculture under this chapter, except orders issued under subsec. (a) of this section, see section 2342(2) of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499d, 499h of this title; title 28 section 2342.

§ 499k. Injunctions; application of injunction laws governing orders of Interstate Commerce Commission.

ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Secretary of Agriculture under this chapter, except orders issued under section 499g(a) of this title, see section 2342(2) of Title 28, Judiciary and Judicial Procedure.

Chapter 25A.—EXPORT STANDARDS FOR GRAPES AND PLUMS

§ 591. Standards of export; establishment; shipping without certificate forbidden; hearings.

It shall be unlawful for any person to ship or offer for shipment or for any carrier, or any steamship company, or any person to transport or receive for transportation to any foreign destination, except as provided in this chapter, any grapes or plums of any variety in packages which are not accompanied by a certificate issued under authority of the Secretary showing that such grapes or plums are of a Federal or State grade which meets the minimum of quality established for such variety and destination by the Secretary for shipment in export to such destination. The Secretary is authorized to prescribe, by reguations, the requirements, other than those of grades, which the fruit must meet before certificates are issued. The Secretary shall provide opportunity, by public hearing or otherwise for interested persons to examine and make recommendation with respect to any standard of export proposed to be established or designated, or regulation prescribed, by the Secretary for the purposes of this chapter. (As amended Pub. L. 93-606, Jan. 2, 1975, 88 Stat. 1966.)

AMENDMENTS

1975—Pub. L. 93-606 added "and destination" and "to such destination" following "such variety" and "for shipment in export", respectively.

Chapter 26.—AGRICULTURAL ADJUSTMENT

COMMODITY BENEFITS

Sec.
612c-2. Technical support to exporters and importers of United States agricultural products; scope of support provided by Department of Agriculture [New].
612c-3. Export sales reports; reporting period; contents; confidentiality; compilation and publication by Secretary; penalty for failure to report; monthly reports [New].

DECLARATION OF CONDITIONS AND POLICY

§ 601. Declaration of conditions.

VALIDITY OF CERTAIN SECTIONS AFFIRMED

Act June 3, 1937, ch. 296, §§ 1, 2, 50 Stat. 246, provided as follows:

* * * * *

"SEC. 2. The following provisions, reenacted in section I of this act, are amended as follows: * * * [sections 601, 608a (6), 608c (5) (B) (d), (6) (B) (18), (19), 610 (c), (f), 612 (a)]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 671 of this title.

§ 602. Declaration of policy; establishment of price basing period; marketing standards; orderly supply flow; circumstances for continued regulation.

AMENDMENTS

1948—Subsec. (1). Act July 3, 1948 made the definition of "parity" conform to definition stated in section 1301 (a) (1) of this title.

COMMODITY BENEFITS

§ 608a. Enforcement of chapter.

(1) to (4) Omitted.

* * * * *

CODIFICATION

Provisions of subsecs. (1) to (4), relating to establishment, regulation and determination of sugar quotas, agreements limiting or regulating child labor, wages, and adjustment of disputes in the sugar industry, and prescribing penalties for violations thereof, are omitted since they ceased to apply on Sept. 1, 1937, in accordance with the provisions of section 510 of the Sugar Act of 1937, act Sept. 1, 1937, ch. 898, 50 Stat. 916. Section 510 of act Sept. 1, 1937, provided in part that: "The provisions of the Agricultural Adjustment Act, as amended [this chapter], shall cease to apply to sugar upon the enactment of this Act [Sept. 1, 1937]". Provisions similar to former subsecs. (1) to (4) are contained in the Sugar Act of 1948, section 1100 et seq. of this title.

§ 608c. Orders regulating handling of commodity.

* * * * *

(2) Commodities to which applicable; single commodities and separate agricultural commodities.

Orders issued pursuant to this section shall be applicable only to (A) the following agricultural commodities and the products thereof (except canned or frozen pears, grapefruit, cherries, apples, or cranberries, the products of naval stores, and the products of honeybees), or to any regional, or market classification of any such commodity or product: Milk, fruits (including filberts, almonds, pecans, and walnuts but not including apples, other than apples produced in the States of Washington, Oregon, Idaho, New

York, Michigan, Maryland, New Jersey, Indiana, California, Maine, Vermont, New Hampshire, Rhode Island, Massachusetts, Connecticut, Colorado, Utah, New Mexico, Illinois, and Ohio, and not including fruits for canning or freezing other than pears, olives, grapefruit, cherries, cranberries, and apples produced in the States named above except Washington, Oregon, and Idaho), tobacco, vegetables (not including vegetables, other than asparagus, for canning or freezing and not including potatoes for canning, freezing, or other processing), hops, honeybees, and naval stores as included in the Naval Stores Act and standards established thereunder (including refined or partially refined oleoresin): *Provided*, That no order issued pursuant to this section shall be effective as to any grapefruit for canning or freezing unless the Secretary of Agriculture determines, in addition to other findings and determinations required by this chapter, that the issuance of such order is approved or favored by the processors who, during a representative period determined by the Secretary, have been engaged in canning or freezing such commodity for market and have canned or frozen for market more than 50 per centum of the total volume of such commodity canned or frozen for market during such representative period; and (B) any agricultural commodity (except honey, cotton, rice, wheat, corn, grain sorghums, oats, barley, rye, sugarcane, sugarbeets, wool, mohair, livestock, soybeans, cottonseed, flaxseed, poultry (but not excepting turkeys), eggs (but not excepting turkey hatching eggs), fruits and vegetables for canning or freezing, including potatoes for canning, freezing, or other processing, and apples), or any regional or market classification thereof, not subject to orders under (A) of this subdivision, but not the products (including canned or frozen commodities or products) thereof. No order issued pursuant to this section shall be effective as to cherries, apples, or cranberries for canning or freezing unless the Secretary of Agriculture determines, in addition to other required findings and determinations, that the issuance of such order is approved or favored by processors who, during a representative period determined by the Secretary, have engaged in canning or freezing such commodity for market and have frozen or canned more than 50 per centum of the total volume of the commodity to be regulated which was canned or frozen within the production area, or marketed within the marketing area, defined in such order, during such representative period. No order issued pursuant to this section shall be applicable to peanuts produced in more than one of the following production areas: the Virginia-Carolina production area, the Southeast production area, and the Southwest production area. If the Secretary determines that the declared policy of this chapter will be better achieved thereby (i) the commodities of the same general class and used wholly or in part for the same purposes may be combined and treated as a single commodity and (ii) the portion of an agricultural commodity devoted to or marketed for a particular use or combination of uses, may be treated as a separate agricultural commodity. All agricultural commodities and products covered hereby shall be deemed specified herein for the purposes of subsections (6) and (7) of this section.

* * * * *

(5) Milk and its products; terms and conditions of orders.

In the case of milk and its products, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7) of this section) no others:

* * * * *

(B) Providing:

(i) for the payment to all producers and associations of producers delivering milk to the same handler of uniform prices for all milk delivered by them: *Provided*, That, except in the case of orders covering milk products only, such provision is approved or favored by at least three-fourths of the producers who, during a representative period determined by the Secretary of Agriculture, have been engaged in the production for market of milk covered in such order or by producers who, during such representative period, have produced at least three-fourths of the volume of such milk produced for market during such period; the approval required hereunder shall be separate and apart from any other approval or disapproval provided for by this section; or

(ii) for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered;

subject, in either case, only to adjustments for (a) volume, market, and production differentials customarily applied by the handlers subject to such order, (b) the grade or quality of the milk delivered, (c) the locations at which delivery of such milk is made, (d) a further adjustment to encourage seasonal adjustments in the production of milk through equitable apportionment of the total value of the milk purchased by any handler, or by all handlers, among producers on the basis of their marketings of milk during a representative period of time, which need not be limited to one year; (e) a provision providing for the accumulation and disbursement of a fund to encourage seasonal adjustments in the production of milk may be included in an order; and (f) a further adjustment, equitably to apportion the total value of milk purchased by all handlers among producers on the basis of their marketings of milk, which may be adjusted to reflect the utilization of producer milk by all handlers in any use classification or classifications, during a representative period of one to three years, which will be automatically updated each year. In the event a producer holding a base allocated under this clause (f) shall reduce his marketings, such reduction shall not adversely affect his history of production and marketing for the determination of future bases, or future updating of bases, except that an order may provide that, if a producer reduces his marketings below his base al-

location in any one of more use classifications designated in the order, the amount of any such reduction shall be taken into account in determining future bases, or future updating of bases. Bases allocated to producers under this clause (f) may be transferable under an order on such terms and conditions, including those which will prevent bases taking on an unreasonable value, as are prescribed in the order by the Secretary of Agriculture. Provisions shall be made in order for the allocation of bases under this clause (f)—

(i) for the alleviation of hardship and inequity among producers; and

(ii) for providing bases for dairy farmers not delivering milk as producers under the order upon becoming producers under the order who did not produce milk during any part of the representative period and these new producers shall within ninety days after the first regular delivery of milk at the price for the lowest use classification specified in such order be allocated a base which the Secretary determines proper after considering supply and demand conditions, the development of orderly and efficient marketing conditions and to the respective interests of producers under the order, all other dairy farmers and the consuming public. Producer bases so allocated shall for a period of not more than three years be reduced by not more than 20 per centum; and

(iii) dairy farmers not delivering milk as producers under the order upon becoming producers under the order by reason of a plant to which they are making deliveries becoming a pool plant under the order, by amendment or otherwise, shall be provided bases with respect to milk delivered under the order based on their past deliveries of milk on the some[1] basis as other producers under the order; and

* * * * *

(6) Other commodities; terms and conditions of orders.

In the case of the agricultural commodities and the products thereof, other than milk and its products specified in subsection (2) of this section orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7) of this section), no others:

* * * * *

(I) Establishing or providing for the establishment of production research, marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of any such commodity or product, the expense of such projects to be paid from funds collected pursuant to the marketing order: *Provided*, That with respect to orders applicable to almonds, California-grown peaches, cherries, papayas, carrots, citrus fruits, onions, Tokay grapes, pears, dates, plums, nectarines, celery, sweet corn, limes, olives, pecans, avocados, apples or tomatoes, such projects may provide for any form of marketing promotion including paid advertising and with respect to almonds and Florida Indian River grapefruit may provide for crediting the pro rata expense assessment obligations of a handler with all or any portion of his direct expenditures for such marketing promotion including paid advertising as may be authorized by the order and when the handling of any commodity for canning or freezing is regulated, then any such projects may also deal with the commodity or its products in canned or frozen form: *Provided further*, That the inclusion in a search and marketing promotion, including paid advertising, shall not be deemed to preclude, preempt or supersede any such provisions in any State program covering the same commodity.

(J) In the case of pears for canning or freezing, any order for a production area encompassing territory within two or more States or portions thereof shall provide that the grade, size, quality, maturity, and inspection regulation under the order applicable to pears grown within any such State or portion thereof may be recommended to the Secretary by the agency established to administer the order only if a majority of the representatives from that State on such agency concur in the recommendation each year.

(7) Terms common to all orders.

In the case of the agricultural commodities and the products thereof specified in subsection (2) of this section orders shall contain one or more of the following terms and conditions:

* * * * *

(C) Providing for the selection by the Secretary of Agriculture, or a method for the selection, of an agency or agencies and defining their powers and duties, which shall include only the powers:

* * * * *

No person acting as a member of an agency established pursuant to this paragraph shall be deemed to be acting in an official capacity, within the meaning of section 610 (g) of this title, unless such person receives compensation for his personal services from funds of the United States. There shall be included in the membership of any agency selected to administer a marketing order applicable to grapefruit or pears for canning or freezing one or more representatives of processors of the commodity specified in such order: *Provided*, That in a marketing order applicable to pears for canning or freezing the representation of processors and producers on such agency shall be equal.

* * * * *

(15) Petition by handler for modification of order or exemption; court review of ruling of Secretary.

* * * * *

(B) The District Courts of the United States in any district in which such handler is an inhabitant, or has his principal place of business, are vested with jurisdiction in equity to review such ruling, provided a bill in equity for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the bill of complaint. If the court

[1] So in original, probably should read "same".

determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subsection (15) shall not impede, hinder, or delay the United States or the Secretary of Agriculture from obtaining relief pursuant to section 608a(6) of this title. Any proceedings brought pursuant to section 608a(6) of this title (except where brought by way of counterclaim in proceedings instituted pursuant to this subsection (15)) shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this subsection (15).

* * * * *

(17) Provisions applicable to amendments.

The provisions of this section and section 608d of this title applicable to orders shall be applicable to amendments to orders: *Provided,* That notice of a hearing upon a proposed amendment to any order issued pursuant to this section, given not less than three days prior to the date fixed for such hearing, shall be deemed due notice thereof: *Provided further,* That if one-third or more of the producers as defined in a milk order apply in writing for a hearing on a proposed amendment of such order, the Secretary shall call such a hearing if the proposed amendment is one that may legally be made to such order. Subsection (12) of this section shall not be construed to permit any cooperative to act for its members in an application for a hearing under the foregoing proviso and nothing in such proviso shall be construed to preclude the Secretary from calling an amendment hearing as provided in subsection (3) of this section. The Secretary shall not be required to call a hearing on any proposed amendment to an order in response to an application for a hearing on such proposed amendment if the application requesting the hearing is received by the Secretary within ninety days after the date on which the Secretary has announced his decision on a previously proposed amendment to such order and the two proposed amendments are essentially the same.

(18) Milk prices.

The Secretary of Agriculture, prior to prescribing any term in any marketing agreement or order, or amendment thereto, relating to milk or its products, if such term is to fix minimum prices to be paid to producers or associations of producers, or prior to modifying the price fixed in any such term, shall ascertain the parity prices of such commodities. The prices which it is declared to be the policy of Congress to establish in section 602 of this title shall, for the purposes of such agreement, order, or amendment, be adjusted to reflect the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk or its products in the marketing area or, in the case of orders applying only to manufacturing milk, the production area to which the contemplated marketing agreement, order, or amendment relates. Whenever the Secretary finds, upon the basis of the evidence adduced at the hearing required by section 608b of this title or this section, as the case may be, that the parity prices of such commodities are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk and its products in the marketing area or, in the case of orders applying only to manufacturing milk, the production area to which the contemplated agreement, order, or amendment relates, he shall fix such prices as he finds will reflect such factors, insure a sufficient quantity of pure and wholesome milk to meet current needs and further to assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs, and be in the public interest. Thereafter, as the Secretary finds necessary on account of changed circumstances, he shall, after due notice and opportunity for hearing, make adjustments in such prices.

(19) Producer or processor referendum for approving order.

For the purpose of ascertaining whether the issuance of an order is approved or favored by producers or processors, as required under the applicable provisions of this chapter, the Secretary may conduct a referendum among producers or processors and in the case of an order other than an amendatory order shall do so. The requirements of approval or favor under any such provision shall be held to be complied with if, of the total number of producers or processors, or the total volume of production, as the case may be, represented in such referendum, the percentage approving or favoring is equal to or in excess of the percentage required under such provision. The terms and conditions of the proposed order shall be described by the Secretary in the ballot used in the conduct of the referendum. The nature, content, or extent of such description shall not be a basis for attacking the legality of the order or any action relating thereto. Nothing in this subsection shall be construed as limiting representation by cooperative associations as provided in subsection (12) of this section. For the purpose of ascertaining whether the issuance of an order applicable to pears for canning or freezing is approved or favored by producers as required under the applicable provisions of this chapter, the Secretary shall conduct a referendum among producers in each State in which pears for canning or freezing are proposed to be included within the provisions of such marketing order and the requirements of approval or favor under any such provisions applicable to pears for canning or freezing shall be held to be complied with if, of the total number of producers, or the total volume of production, as the case may be, represented in such referendum, the percentage approving or favoring is equal to or in excess of 66⅔ per centum except that in the event that pear producers in any State fail to approve or favor the issuance of any such marketing order, it shall not be made effective in such State.

(As amended Nov. 30, 1970, Pub. L. 91–524, title II, § 201 (a), (f), 84 Stat. 1359, as amended Aug. 10, 1973, Pub. L. 93–86, § 1(2)(B), 87 Stat. 222; Aug. 13, 1971, Pub. L. 92–120, 85 Stat. 340; Feb. 15, 1972,

Pub. L. 92–233, 86 Stat. 39; Oct. 6, 1972, Pub. L. 92–466, 86 Stat. 780; Dec. 29, 1973, Pub. L. 93–230, 87 Stat. 945.)

STATUTES AT LARGE

Acts Aug. 8, 1961, Pub. L. 87–128, title I, § 143(3, 4), 75 Stat. 304, 305 and Jan. 1, 1971, Pub. L. 91–670, title I, § 101, title II, § 201, 84 Stat. 2040, 2041, cited to the credits should read: Aug. 8, 1961, Pub. L. 87–128, title I, §141(3, 4), 75 Stat. 304, 305 and Jan. 11, 1971, Pub. L. 91–670, title I, § 101, title II, § 201, 84 Stat. 2040, 2041.

AMENDMENTS

1973—Subsec. (6)(I). Pub. L. 93–230 inserted "and Florida Indian River grapefruit" after "with respect to almonds".

Subsec. (17). Pub. L. 91–524, § 201(f)(1), as added by Pub. L. 93–86 added provisions governing procedures when one-third or more of producers apply in writing for a hearing on a proposed amendment of an order, prohibiting any construction of subsec. (12) in a way which might permit cooperatives to act for their members in applying for hearings, and excusing the Secretary from the requirement of having to call a hearing on proposed amendments to an order in response to an application for such a hearing when the application for such a hearing is received by the Secretary within ninety days after the date on which the Secretary has announced his decision on a previously proposed amendment to such order and the two proposed amandments are essentially the same.

Subsec. (18). Pub. L. 91–524, § 201(f)(2), as added by Pub. L. 93–86 inserted "to meet current needs and further to assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs" following "insure a sufficient quantity of pure and wholesome milk".

1972—Subsec. (2). Pub. L. 92–233 added potatoes for canning, freezing or other processing to the agricultural commodities excluded from the categories of commodities which the Secretary may regulate. The amendment served to make permanent the temporary exemption first inserted by Pub. L. 91–196. See 1970 Amendment Note and Effective Date of 1970 Amendment Note.

Subsec. (2)(A). Pub. L. 92–466, § 1(1), inserted "pears," following "except canned or frozen" and "canning or freezing other than".

Subsec. (6)(I). Pub. L. 92–466, § 1(2), deleted "fresh" preceding "pears" and provided that when the handling of any commodity for canning or freezing is regulated, then any projects may also deal with the commodity or its products in canned or frozen form.

Subsec. (6)(J). Pub. L. 92–466, § 1(5), added par. (J).

Subsec. (7)(C). Pub. L. 92–466, § 1(3), inserted "or pears" following "marketing order applicable to grapefruit" and added proviso that in a marketing order applicable to pears for canning or freezing the representation of processors and producers on the agency shall be equal.

Subsec. (19). Pub. L. 92–466, § 1(4), added provision respecting producer or processor referendum for approving order applicable to pears for canning or freezing.

1971—Subsec. (6)(I). Pub. L. 92–120 inserted reference to "California-grown peaches" in the proviso.

1937—Subsecs. (18) and (19). Act June 3, 1937, § 2(f), added subsecs. (18) and (19). See note set out under section 601 of this title.

EFFECTIVE DATE OF 1970 AMENDMENTS

The limit of a two-year effective period for the amendment made by Pub. L. 91–196 was removed as a result of the enactment of Pub. L. 92–233, Feb. 15, 1972, 86 Stat. 39, which made an amendment to the section identical to that made by the earlier Pub. L. 91–196 but without a time limit on such amendment of the type which had limited the duration of such earlier Pub. L. 91–196 amendment.

TERMINATION OF 1970 AMENDMENT

Section 201(e) of Pub. L. 91–524, as amended by Pub. L. 93–86, § 1(2)(A), Aug. 10, 1973, 87 Stat. 222, provided that: "The provisions of this section [amending subsec. (5)(B) of this section] shall not be effective after December 31, 1977 except with respect to orders providing for Class I base plans issued prior to such date, but in no event shall any order so issued extend or be effective beyond December 31, 1980."

RETENTION OF STATUS AS PRODUCER HANDLERS OF MILK AT PRE-1973-AMENDMENT STATUS

Section 206 of Pub. L. 91–524, as added Pub. L. 93–86, § 1(6), Aug. 10, 1973, 87 Stat. 224, and amended Pub. L. 93–125, § 1(a)(iii), Oct. 18, 1973, 87 Stat. 450, provided that: "The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, shall be the same subsequent to the adoption of the amendments made by the Agriculture and Consumer Protection Act of 1973 [amending subsecs. (17) and (18) of this section and sections 450*l*, 1446(c) and 1446a of this title] as it was prior thereto."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 608e–1, 610, 672, 673, 853, 855 of this title.

§ 608d. Books and records; disclosure of information.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 672 of this title.

§ 608e–1. Import prohibitions on tomatoes, avocados, limes, etc.; rules and regulations.

STATUTES AT LARGE

Act May 12, 1933, ch. 25, title I, § 8e, as added Aug. 28, 1954, ch. 1041 title, IV § 401(e), 68 Stat. 907, cited to the credits should read: May 12, 1933, ch. 25, title I, § 8e, as added Aug. 28, 1954, ch. 1041, title IV, § 401(e), 68 Stat. 907.

§ 610. Administration.

* * * * *

(g) Officers; dealing or speculating in agricultural products; penalties.

No person shall, while acting in any official capacity in the administration of this chapter, speculate, directly or indirectly, in any agricultural commodity or product thereof, to which this chapter applies, or in contracts relating thereto, or in the stock or membership interest of any association or corporation engaged in handling, processing, or disposing of any such commodity or product. Any person violating this subsection shall upon conviction thereof be fined not more than $10,000 or imprisoned not more than two years, or both.

* * * * *

(j) Definitions.

The term "interstate or foreign commerce" means commerce between any State, Territory, or possession, or the Distict of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia. For the purpose of this chapter (but in nowise limiting the foregoing definition) a marketing transaction in respect to an agricultural commodity or the product thereof shall be considered in interstate or foreign commerce if such commodity or product is part of that current of interstate or foreign commerce usual in the handling of the commodity or product whereby they, or either of them, are sent from one State to end their transit, after purchase, in another, including all cases where purchase or sale is either for shipment to another State or for the processing within the State and the shipment outside the State of the products so processed. Agricultural commodities or products thereof nor-

mally in such current of interstate or foreign commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of said sections. As used herein, the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nations.

* * * * *

CODIFICATION

Subsecs. (g) and (j) of this section are set out in this Supplement to correct typographical errors.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 608c, 671, 672, 673, 855 of this title; title 5 sections 3502, 6312, 8332.

§ 612c. Appropriations to encourage exportation and domestic consumption of agricultural products.

COMMODITY DISTRIBUTION PROGRAM; PURCHASE OF AGRICULTURAL COMMODITIES WITH UNEXPENDED OR AVAILABLE FUNDS; PROHIBITION ON FURNISHING COMMODITIES TO SUMMER CAMPS; PARTICIPATION IN PROGRAM OF INDIVIDUAL RECEIVING SUPLEPMENTAL SECURITY INCOME BENEFITS

Pub. L. 93–86, § 4, Aug. 10, 1973, 87 Stat. 249, amended by Pub. L. 93–347, § 1, July 12, 1974, 88 Stat. 340, provided that:

"(a)(1) Notwithstanding any other provision of law, the Secretary of Agriculture shall until July 1, 1975, (i) use funds available under provisions of section 32 of Public Law 320, Seventy-fourth Congress, as amended (7 U.S.C. 612c) [this section] and not otherwise expended or necessary for such purposes to purchase, without regard to the provisions of existing law governing the expenditure of public funds, agricultural commodities and their products of the types customarily purchased under section 32 [this section] (which may include seafood commodities and their products) to maintain the traditional level of assistance for food assistance programs as are authorized by law, including but not limited to distribution to needy families pending the transition to the food stamp program, institutions, supplemental feeding programs wherever located, disaster relief, summer camps for children, and the family commodity distribution program on Indian reservations not requesting a food stamp program, and (ii) if stocks of the Commodity Credit Corporation are not available, use the funds of the Corporation to purchase agricultural commodities and their products of the types customarily available under section 416 of the Agricultural Act of 1949 [section 1431 of this title] to meet such requirements.

"(2) Notwithstanding any other provision of law, the Secretary of Agriculture shall, during each of the two fiscal years beginning July 1, 1975, and ending June 30, 1977, purchase agricultural commodities and otherwise carry out the provisions of this subsection with funds appropriated from the general fund of the Treasury. There are hereby authorized to be appropriated such funds as may be necessary to carry out the provisions of this paragraph. Authority provided in this paragraph shall be carried out only with such funds as are appropriated from the general fund of the Treasury for that specific purpose, and in no event shall it be carried out with funds derived from permanent appropriations.

"(3) Nothing in this subsection shall supersede the requirements of section 10(e) of the Food Stamp Act of 1964, as amended [section 2019 (e) of this title], except as to Indian reservations."

"(b) The Secretary is prohibited from furnishing commodities to summer camps as authorized under section 416 of the Agricultural Act of 1949 [section 1431 of this title], section 32 of Public Law 74–320 [this section] and section 709 of the Food and Agriculture Act of 1965 [section 1446a–1 of this title] if the number of adults participating in the activities of such camp is in excess of one for each five children under 18 years of age participating in such activities.

"(c) No individual who receives supplemental security income benefits under title XVI of the Social Security Act [subchapter XVI of chapter 7 of Title 42] shall be considered to be a member of a household for any purpose of the Food Distribution Program for families under section 32 of Public Law 74–320 [this section], section 416 of the Agricultural Act of 1949 [section 1446a–1 of this title], or other law for any month if such person receives for such month, as part of his supplemental security income benefits or payments described in section 1616(a) of the Social Security Act [section 1382e(a) of Title 42] (if any), an amount equal to the bonus value of food stamps (according to the Food Stamp Schedule effective for July 1973) in addition to the amount of assistance such individual would be entitled to receive for such month under the provisions of the plan of the State approved under title I, X, XIV, or XVI [subchapter I, X, XIV, or XVI of chapter 7 of Title 42], as appropriate, in effect for December 1973, assuming such plan were in effect for such month and such individual were aged, blind, or disabled, as the case may be, under the provisions of such State plan or under Public Law 92–603 as amended [see Short Title note under section 401 of Title 42]. The Secretary of Health, Education, and Welfare shall issue regulations for the implementation of the foregoing sentence after consultation with the Secretary of Agriculture."

[Pub. L. 93–233, § 8(b)(1), Dec. 30, 1973, 87 Stat. 956, as amended by Pub. L. 93–335, § 1(b), July 8, 1974, 88 Stat. 291; Pub. L. 94–44, § 3(b), June 28, 1975, 89 Stat. 235, provided that: "Section 4(c) of Public Law 93–86 [subsec. (c) of this note] shall not be effective for the 30-month period beginning January 1, 1974."]

ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS DURING PRESCRIBED PERIOD BEGINNING JANUARY 1, 1974

Pub. L. 93–233, § 8(b)(3), Dec. 30, 1973, 87 Stat. 956, as amended by Pub. L. 93–335, §1(b), July 8, 1974, 88 Stat. 291; Pub. L. 94–44, § 3(b), June 28, 1975, 89 Stat. 235, provided that: "For the 30-month period beginning January 1, 1974, no individual, who receives supplemental security income benefits under title XVI of the Social Security Act [section 1381 et seq. of Title 42], State supplementary payments described in section 1616 of such Act [section 1382e of Title 42], or payments of the type referred to in section 212(a) of Public Law 93–66 [set out as a note under section 1382 of Title 42], shall be considered to be a member of a household for any purpose of the food distribution program for families under section 32 of Public Law 74–320 [this section], section 416 of the Agricultural Act of 1949 [section 1431 of this title], or any other law, for any month during such period, if, for such month, such individual resides in a State which provides State supplementary payments (A) of the type described in section 1616(a) of the Social Security Act [section 1382e(a) of Title 42], and (B) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps."

DIRECT DISTRIBUTION PROGRAMS FOR DIET OF NEEDY CHILDREN AND LOW-INCOME PERSONS SUFFERING FROM GENERAL AND CONTINUED HUNGER; ADDITIONAL FUNDS

Section 6 of Pub. L. 92–32, June 30, 1971, 85 Stat. 86, provided that: "In addition to funds appropriated or otherwise available, the Secretary of Agriculture is authorized to use, during the fiscal year ending June 30, 1972, not to exceed $20,000,000 in funds from section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) [this section], for the purpose of carrying out in any area of the United States direct distribution or other programs, without regard to whether such area is under the food stamp program or a system of direct distribution, to provide, in the immediate vicinity of their place of permanent residence, either directly or through a State or local welfare agency, and adequate diet to needy children and low-income persons determined by the Secretary of Agriculture to be suffering, through no fault of their own, from general and continued hunger resulting from insufficient food. Food made available to needy children under this section shall be in addition to any food made available to them under the National School Lunch Act [section 1751 et seq. of Title 42] or the Child Nutrition Act of 1966 [section 1771 et seq. of Title 42]. Whenever any program is carried out by the Secretary under authority of the preceding sentence through any State or local welfare agency, he is authorized to pay

the administrative costs incurred by such State or local agency in carrying out such program."

USE OF FUNDS FOR SCHOOL LUNCH PROGRAM UNDER SECTION 1753 OF TITLE 42

Use of funds appropriated under this section for implementing section 1753 of Title 42 till supplemental appropriation is made and reimbursement of such funds, see section 4(a) of Pub. L. 92–433, set out as a note under section 1753 of Title 42.

ADDITIONAL FUNDS FOR FOOD SERVICE PROGRAMS FOR CHILDREN; APPORTIONMENT TO STATES; SPECIAL ASSISTANCE; CONSULTATION WITH CHILD NUTRITION COUNCIL; REIMBURSEMENT FROM SUPPLEMENTAL APPROPRIATION

Additional funds for food service programs for children from appropriations under this section, apportionment to States, special assistance programs, consultation with National Advisory Council on Child Nutrition, and reimbursement from supplemental appropriation, see note set out under section 1753 of Title 42, The Public Health and Welfare.

TRANSFER OF FUNDS TO SCHOOLS IN NEED OF ADDITIONAL ASSISTANCE IN SCHOOL BREAKFAST PROGRAM

Authorization for transfer of funds under this section to assist schools in need of additional funds in school breakfast program, see note set out under section 1773 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 sections 1761, 1762, 1762a, 1766, 1786, 3045f, 5180.

§ 612c–2. Technical support to exporters and importers of United States agricultural products; scope of support provided by Department of Agriculture.

The Department of Agriculture shall provide technical support to exporters and importers of United States agricultural products when so requested. Such support shall include, but not be limited to, a review of the feasibility of the export proposal, adequacy of sources of supply, compliance with trade regulations of the United States and the importing country and such other information or guidance as may be needed to expand and expedite United States agricultural exports by private trading interests. (Pub. L. 91–524, title VIII, § 811, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 238.)

§ 612c–3. Export sales reports; reporting period; contents; confidentiality; compilation and publication by Secretary; penalty for failure to report; monthly reports.

All exporters of wheat and wheat flour, feed grains, oil seeds, cotton and products thereof, and other commodities the Secretary may designate produced in the United States shall report to the Secretary of Agriculture, on a weekly basis, the following information regarding any contract for export sales entered into or subsequently modified in any manner during the reporting period: (a) type, class, and quantity of the commodity sought to be exported, (b) the marketing year of shipment, (c) destination, if known. Individual reports shall remain confidential but shall be compiled by the Secretary and published in compilation form each week following the week of reporting. All exporters of agricultural commodities produced in the United States shall upon request of the Secretary of Agriculture immediately report to the Secretary any information with respect to export sales of agricultural commodities and at such times as he may request. Any person (or corporation) who knowingly fails to report export sales pursuant to the requirements of this section shall be fined not more than $25,000 or imprisoned not more than one year, or both. The Secretary may, with respect to any commodity or type or class thereof during any period in which he determines that there is a domestic supply of such commodity substantially in excess of the quantity needed to meet domestic requirements, and that total supplies of such commodity in the exporting countries are estimated to be in surplus, and that anticipated exports will not result in excessive drain on domestic supplies, and that to require the reports to be made will unduly hamper export sales, provide for such reports by exporters and publishing of such data to be on a monthly basis rather than on a weekly basis. (Pub. L. 91–524, title VIII, § 812, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 238.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 App. sections 2403, 2409.

§ 624. Limitation on imports; authority of President.

CHANGE OF NAME

United States Tariff Commission, referred to in subsecs. (a) and (b), redesignated United States International Trade Commission by Pub. L. 93–618, title I, § 171(a), Jan. 3, 1975, 88 Stat. 2009. See section 2231 of Title 19, Customs Duties.

DAIRY IMPORT STUDY BY SECRETARY OF AGRICULTURE; REPORT TO CONGRESS BY JAN. 1, 1975

Pub. L. 91–524, title II, § 205, as added Pub. L. 93–86, § 1(6), Aug. 10, 1973, 87 Stat. 223, and amended Pub. L. 93–125, § 1(a)(1), Oct. 18, 1973, 87 Stat. 450, provided that: "The Secretary of Agriculture is authorized and directed to carry out a comprehensive study to determine the effect upon domestic dairy producers, handlers, and processors and upon consumers of increases in the level of imports, if any, of dairy products and report his findings, together with any recommendations he may have with respect to import quotas or other matters, to the Congress of the United States no later than January 1, 1975. For the purposes of this section dairy products include (1) all forms of milk and dairy products, butterfat, milk solids-not-fat, and any combination or mixture thereof; (2) any article, compound, or mixture containing 5 per centum or more of butterfat, or milk solids-not-fat, or any combinations of the two; and (3) lactose, and other derivatives of milk, butterfat, or milk solids-not-fat, if imported commercially for any food use. Dairy products do not include (1) casein, caseinates, industrial casein, industrial caseinates, or any other industrial products, not to be used in any form for any food use, or an ingredient of food; or (2) articles not normally considered to be dairy products, such as candy, bakery goods, and other similar articles."

Chapter 26.—AGRICULTURAL MARKETING AGREEMENTS

§ 671. Arbitration of disputes concerning milk.

(a) Application.

The Secretary of Agriculture, or such officer or employee of the Department of Agriculture as may be designated by him, upon written application of any cooperative association, incorporated or otherwise, which is in good faith owned or controlled by producers or organizations thereof, of milk or its products, and which is bona fide engaged in collective processing or preparing for market or handling or marketing (in the current of interstate or foreign commerce, as defined by section 610(j) of this title), milk or its products, may mediate and, with the consent of all parties, shall arbitrate if the Secretary has reason to believe that the declared policy of the Agricultural Adjustment Act, as

amended, would be effectuated thereby, bona fide disputes, between such associations and the purchasers or handlers or processors or distributors of milk or its products, as to terms and conditions of the sale of milk or its products. The power to arbitrate under this section shall apply only to such subjects of the term or condition in dispute as could be regulated under the provisions of the Agricultural Adjustment Act, as amended, relating to orders for milk and its products.

* * * * *

CODIFICATION

Subsec. (a) of this section is set out in this Supplement to correct a typographical error.

§ 672. Agreements; licenses, regulations, programs, etc., unaffected.

* * * * *

(b) Any program in effect under sections 601, 602, 608a to 608d, 610, 612, 614, and 624 of this title, on January 1, 1950, shall continue in effect without the necessity for any amendatory action relative to such program, but any such program shall be continued in operation by the Secretary of Agriculture only to establish and maintain such orderly marketing conditions as will tend to effectuate the declared purpose set out in section 602 or 608c of this title.

* * * * *

CODIFICATION

Subsec. (b) of this section is set out in this Supplement to correct a typographical error.

Chapter 31.—RURAL ELECTRIFICATION AND TELEPHONE SERVICE

SUBCHAPTER I.—RURAL ELECTRIFICATION

Sec.
906a. Use of funds outside the United States or its territories prohibited [New].
912a. Rescheduling and refinancing of loans.

SUBCHAPTER II.—RURAL TELEPHONE SERVICE

921a. Same; financing of rural telephone program [New].
921b. Same; expansion of markets for debentures [New].

SUBCHAPTER III.—RURAL ELECTRIC AND TELEPHONE DIRECT LOAN PROGRAMS [NEW]

930. Congressional declaration of policy.
931. Rural Electrification and Telephone Revolving Fund.
932. Same; liabilities and uses.
933. Same; deposit of moneys.
934. Same; authorized financial transactions; interim notes; purchase of obligations for resale; sale of notes and certificates; liens.
935. Insured loans.
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(c) Sale and insurance of loans by Administrator.
936. Guaranteed loans; accommodation and subordination of liens; assignability of guaranteed loans and related guarantees.
937. Loans from other credit sources.
938. Full faith and credit of the United States.
939. Loan terms and conditions.
940. Refinancing of rural development loans.

SUBCHAPTER IV.—RURAL TELEPHONE BANK [NEW]

941. Telephone Bank.
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(b) General purposes.
(c) Status; payment in lieu of property taxes.
942. General powers.
943. Special provisions governing telephone bank as a Federal agency until conversion of ownership, control, and operation.
(a) Supervision and direction of Secretary of Agriculture; free postage and priority of debts restrictions.
(b) Use of facilities and services of employees of any agency of Department of Agriculture.
(c) Wholly owned Government corporations.
(d) Appointment and compensation of personnel.
(e) Tort claims and litigation.
944. Governor of telephone bank; functions, powers, and duties.
945. Telephone Bank Board.
(a) Management of telephone bank; membership.
(b) Federal agency and general public representation; additional compensation restriction.
(c) Selection of other Board members; initial appointment of eligible borrowers; service of appointee until election of successors.
(d) Same; interim election by eligible borrowers of representatives from cooperative-type and commercial-type entities; notice of election; voting; majority, proxies; term.
(e) Same; election of representatives of cooperative-type and commercial-type entities; voting; majority; proxy voting; cumulative voting prohibited.
(f) Service of member after expiration of term; compensation; travel and other expenses.
(g) Bylaws.
(h) Meetings: regular and special.
(i) Annual report; transmittal to Congress.
946. Capitalization.
(a) Federal and borrower subscriptions; Federal limitation; report to President, transmittal to Congress; net collection proceeds.
(b) Stock classification; voting stock; one vote rule.
(c) Class A stock; issuance to Administrator and redemption; cumulative return.
(d) Class B stock; borrowers as holders; dividend prohibition; patronage refunds.
(e) Class C stock; borrowers as purchasers; dividends.
(f) Special fund equivalents.
(g) Patronage refunds from remaining earnings after provision for operating expenses, reserves for losses, payments in lieu of taxes, and returns on class A and B stock.
947. Borrowing power; telephone debentures; issuance; interest rates; terms and conditions; ratio to paid-in capital and retained earnings; investments in debentures; debentures as security; purchase and sale of debentures by the Secretary of the Treasury; treatment as public debt transactions of the United States; exclusion of transactions from budget totals.
948. Lending power.
(a) Loans for prescribed purposes; requisite conditions.
(b) Terms and conditions of loans; restrictions on loans.
(1) Amortization period.
(2) Preference in loans; election of loans for telephone system with certain subscriber density per mile.
(3) Interest rate.
(4) Adequacy of security; repayment within agreed period; net income production of stated percentage of interest on loans: waiver.

Sec.
948. Lending power—Continued
(b) Terms and conditions etc.—Continued
(5) Certificate of convenience and necessity required from State regulatory agency or statement of telephone bank's Governor of nonduplication of lines, facilities, or systems.
(6) Definitions: telephone service; telephone lines, facilities, or systems.
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(c) Payment schedule; adjustment; loan period.
949. Telephone bank receipts; availability for obligations and expenditures.
950. Conversion of ownership, control, and operation of telephone bank.
(a) Transfer of powers and authority from Administrator to Telephone Bank Board; cessation of Presidential appointees as Board members and reduction in number of Board members; status of telephone bank.
(b) Restrictions of section 948(a)(2) of this title inapplicable to loans upon redemption and retirement of class A stock.
(c) Congressional review.
950a. Liquidation or dissolution of telephone bank.
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SUBCHAPTER I.—RURAL ELECTRIFICATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 931, 939 of this title.

§ 903. Funds of Administrator.

* * * * *

(f) Repealed. Pub. L. 93–32, § 3, May 11, 1973, 87 Stat. 70.

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(As amended May 7, 1971, Pub. L. 92–12, § 3(a), 85 Stat. 37; May 11, 1973, Pub. L. 93–32, § 3, 87 Stat. 70.)

AMENDMENTS

1973—Subsec. (f). Pub. L. 93–32 struck out subsec. (f) which made provision for the disposition of payments on loans that had been made by the Administrator.

1971—Subsec. (f). Pub. L. 92–12 inserted introductory text "Except as otherwise provided in sections 931 and 946(a) of this title".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–32 effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–12 effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 904, 907, 912, 922, 931, 932, 946 of this title.

§ 904. Loans by Administrator for electrical plants and transmission lines; preferences; consent of State authorities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 931, 932 of this title.

§ 905. Loans for electrical and plumbing equipment; persons eligible for loans.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 931, 932 of this title.

§ 906. Authorization of appropriations; testimony by Secretary of Agriculture before Congressional committees in justification of budget requests.

For the purpose of administering this chapter and for the purpose of making the studies, investigations, publications, and reports herein provided for, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as shall be necessary. On or before February 15 of each calendar year beginning with calendar year 1976, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year for the purpose of administering this chapter and for the purpose of making the studies, investigations, publications, and reports herein authorized. (As amended Nov. 4, 1975, Pub. L. 94–124, § 3, 89 Stat. 677.)

AMENDMENTS

1975—Pub. L. 94–124 added requirement that the Secretary of Agriculture testify before the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry each calendar year on or before February 15th or other date specified by the Committees to provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 911 of this title.

§ 906a. Use of funds outside the United States or its territories prohibited.

No funds provided under this chapter shall be used outside the United States or any of its territories. (Pub. L. 93–32, § 10, May 11, 1973, 87 Stat. 71.)

CODIFICATION

Section was not enacted as part of the Rural Electrification Act of 1936, as amended, act May 20, 1936, ch. 432, which comprises this chapter.

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

§ 907. Acquisition of property pledged for loans; disposition; sale of pledged property by borrower.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 932 of this title.

§ 912. Extension of time for repayment of loans.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 912a of this title.

§ 912a. Rescheduling and refinancing of loans.

In addition to the loan extension authority provided in section 912 of this title, the Secretary of Agriculture is authorized to adjust and readjust the schedules for payment of principal and interest on loans to borrowers under programs administered by the Rural Electrification Administration, and to extend the maturity date of any such loan to a date not beyond forty years from the date of such loan where he determines such action is necessary because of the impairment of the economic feasibility of the system, or the loss, destruction, or damage of the property of such borrowers as a result of a

major disaster. (Pub. L. 91–606, title II, § 236(a), Dec. 31, 1970, 84 Stat. 1754.)

CODIFICATION

Section was enacted as part of the Disaster Relief Act of 1970, and not as part of the Rural Electrification Act of 1936, which constitutes this chapter. Section was formerly classified to section 4455(a) of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under former section 4401 of Title 42.

SUBCHAPTER II.—RURAL TELEPHONE SERVICE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 931, 939 of this title.

§ 921a. Same; financing of rural telephone program.

It is hereby declared to be the policy of the Congress that the growing capital needs of the rural telephone systems require the establishment of a rural telephone bank which will furnish assured and viable sources of supplementary financing with the objective that said bank will become an entirely privately owned, operated, and financed corporation. The Congress further finds that many rural telephone systems require financing under the terms and conditions provided in this subchapter. (Pub. L. 92–12, § 1, May 7, 1971, 85 Stat. 29.)

CODIFICATION

The last sentence of section 1 of Pub. L. 92–12 provided that: "In order to effectuate this policy, the Rural Electrification Act of 1936, as amended (7 U.S.C. 921–924), is amended as hereinafter provided."

Section was not enacted as a part of title II of the Rural Electrification Act of 1936, which comprises this subchapter.

EFFECTIVE DATE

Section 7 of Pub. L. 92–12 provided that "This Act [which enacted this section and sections 931, 932, and 941–950b of this title and amended sections 903(f) and 922 of this title] shall take effect upon enactment [May 7, 1971]."

RESERVATION OF RIGHT TO REPEAL, ALTER, OR AMEND PUB. L. 92–12

Section 6 of Pub. L. 92–12 provided that "The right to repeal, alter, or amend this Act [which enacted this section and sections 931, 932, and 941–950b of this title, amended sections 903(f) and 922 of this title and sections 856 and 868(d) of Title 31, and enacted provisions set out as notes under sections 856 and 868 of Title 31] is expressly reserved."

§ 921b. Same; expansion of markets for debentures.

It is hereby declared to be the policy of the Congress that the Rural Telephone Bank should have the capability of obtaining adequate funds for its supplementary financing program at the lowest possible costs. In order to effectuate this policy, it will be necessary to expand the market for debentures to be issued by the Telephone Bank. (Pub. L. 92–324, § 1, June 30, 1972, 86 Stat. 390.)

CODIFICATION

The last sentence of section 1 of Pub. L. 92–324 provided that: "The Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), is therefore further amended as hereinafter provided."

Section was not enacted as a part of title II of the Rural Electrification Act of 1936, which comprises this subchapter.

EFFECTIVE DATE

Section 4 of Pub. L. 92–324 provided that: "This Act [which enacted this section and amended section 947 of this title] shall take effect upon enactment [June 30, 1972]."

RESERVATION OF RIGHT TO REPEAL, ALTER, OR AMEND PUB. L. 92–324

Section 3 of Pub. L. 92–324 provided that: "The right to repeal, alter, or amend this Act [which enacted this section and amended section 947 of this title] is expressly reserved."

§ 922. Loans for rural telephone service.

From such sums as are from time to time made available by the Congress to the Administrator for such purpose, pursuant to section 903 of this title, the Administrator is authorized and empowered to make loans to persons now providing or who may hereafter provide telephone service in rural areas, to public bodies now providing telephone service in rural areas and to cooperative, nonprofit, limited dividend, or mutual associations. Except as otherwise provided by this subchapter, such loans shall be made under the same terms and conditions as are provided in section 904 of this title, for the purpose of financing the improvement, expansion, construction, acquisition, and operation of telephone lines, facilities, or systems to furnish and improve telephone service in rural areas: *Provided, however,* That the Administrator, in making such loans, shall give preference to persons providing telephone service in rural areas, to public bodies now providing telephone service in rural areas, and to cooperative, nonprofit, limited dividend, or mutual associations: *And provided further,* That for a period of one year from and after October 28, 1949, applications for loans received by the Administrator from persons who on October 28, 1949, are engaged in the operation of existing telephone service in rural areas shall be considered and acted upon before action is taken upon any application received from any other person for any loan to finance the furnishing or improvement of telephone service to substantially the same subscribers. The Administrator in making such loans shall, insofar as possible, obtain assurance that the telephone service to be furnished or improved thereby will be made available to the widest practical number of rural users. When it is determined by the Administrator to be necessary in order to furnish or improve telephone service in rural areas, such loans may be made for the improvement, expansion, construction, acquisition, and operation of telephone lines, facilities, or systems without regard to their geographical location. The Administrator is further authorized and empowered to make loans for the purpose of refinancing outstanding indebtedness of persons furnishing telephone service in rural areas: *Provided,* That such refinancing shall be determined by the Administrator to be necessary in order to furnish and improve telephone service in rural areas: *And provided further,* That such refinancing shall constitute not more than 40 per centum of any loan made under this subchapter. Loans under this section shall not be made unless the Administrator finds and certifies that in his judgment

the security therefor is reasonably adequate and such loan will be repaid within the time agreed, nor shall such loan be made in any State which now has or may hereafter have a State regulatory body having authority to regulate telephone service and to require certificates of convenience and necessity to the applicant unless such certificate from such agency is first obtained. In a State in which there is no such agency or regulatory body legally authorized to issue such certificates to the applicant, no loan shall be made under this section unless the Administrator shall determine (and set forth his reasons therefor in writing) that no duplication of lines, facilities, or systems, providing reasonably adequate services will result therefrom. (As amended May 7, 1971, Pub. L. 92–12, § 3(b), 85 Stat. 37.)

AMENDMENTS

1971—Pub. L. 92–12 inserted ", to public bodies now providing telephone service in rural areas" following "areas" in first sentence and following "areas" in the first proviso of second sentence.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub L. 92–12 effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 907, 912, 931, 932, 946, 948, 950b of this title.

§ 924. Definition of telephone service and rural area.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 948 of this title.

SUBCHAPTER III.—RURAL ELECTRIC AND TELEPHONE DIRECT LOAN PROGRAMS [NEW]

§ 930. Congressional declaration of policy.

It is hereby declared to be the policy of the Congress that adequate funds should be made available to rural electric and telephone systems through direct, insured and guaranteed loans at interest rates which will allow them to achieve the objectives of this chapter and that such rural electric and telephone systems should be encouraged and assisted to develop their resources and ability to achieve the financial strength needed to enable them to satisfy their credit needs from their own financial organizations and other sources at reasonable rates and terms consistent with the loan applicant's ability to pay and achievement of this chapter's objectives. (Pub. L. 93–32, § 1, May 11, 1973, 87 Stat. 65.)

CODIFICATION

The last sentence of section 1 of Pub. L. 93–32 provided that: "The Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), is therefore further amended as hereinafter provided."

Section was not enacted as a part of the Rural Electrification Act of 1936, act May 20, 1936, ch. 432, which comprises this chapter.

EFFECTIVE DATE

Section 12 of Pub. L. 93–32 provided that: "This Act [which enacted this section and sections 906a and 933 to 940 of this title, amended sections 903, 931, 932, 945, 946, 947, and 948 of this title, and enacted provisions set out as notes under this section] shall take effect upon enactment [May 11, 1973]."

RESERVATION OF RIGHT TO REPEAL, ALTER, OR AMEND PUB. L. 93–32

Section 11 of Pub. L. 93–32 provided that: "The right to repeal, alter, or amend, this Act [which enacted this section and sections 906a and 933 to 940 of this title, amended sections 903, 931, 932, 945, 946, 947, and 948 of this title, and enacted provisions set out as notes under this section] is expressly reserved."

§ 931. Rural Electrification and Telephone Revolving Fund.

(a)[1] There is hereby established in the Treasury of the United States a fund, to be known as the Rural Electrification and Telephone Revolving Fund (hereinafter referred to as the "fund"), consisting of:

(1) all notes, bonds, obligations, liens, mortgages, and property delivered or assigned to the Administrator pursuant to loans heretofore or hereafter made under sections 904, 905, and 922 of this title and under this subchapter, as of May 11, 1973, and all proceeds from the sales hereunder of such notes, bonds, obligations, liens, mortgages, and property, which shall be transferred to and be assets of the funds;

(2) undisbursed balances of electric and telephone loans made under sections 904, 905, and 922 of this title, which as of May 11, 1973, shall be transferred to and be assets of the fund;

(3) notwithstanding section 903(a) of this title, all collections of principal and interest received on and after July 1, 1972, on notes, bonds, judgments, or other obligations made or held under subchapters I and II of this chapter and under this subchapter, except for net collection proceeds previously appropriated for the purchase of class A stock in the Rural Telephone Bank, which shall be paid into and be assets of the fund;

(4) all appropriations for interest subsidies and losses required under this subchapter which may hereafter be made by the Congress;

(5) moneys borrowed from the Secretary of the Treasury pursuant to section 934(a) of this title;

(6) shares of the capital stock of the Rural Telephone Bank purchased by the United States pursuant to section 946(a) of this title and moneys received from said bank upon retirement of said shares of stock in accordance with the provisions of subchapter IV of this chapter, which said shares and moneys shall be assets of the fund.

(May 20, 1936, ch. 432, title III, § 301, as added May 7, 1971, Pub. L. 92–12, § 2, 85 Stat. 29, and amended May 11, 1973, Pub. L. 93–32, § 2, 87 Stat. 66.)

AMENDMENTS

1973—Pub. L. 93–32 substituted provisions establishing the Rural Electrification and Telephone Revolving Fund and enumerating its constituent parts, for provisions establishing a rural telephone account in the United States Treasury.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–32 effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 946 of this title.

§ 932. Same; liabilities and uses.

(a) The notes of the Administrator to the Secretary of the Treasury to obtain funds for loans under sections 904, 905, and 922 of this title, and all other

[1] So in original. There is no subsec. (b).

liabilities against the appropriations or assets in the fund in connection with electrification and telephone loan operations shall be liabilities of the fund, and all other obligations against such appropriations or assets in the fund arising out of electrification and telephone loan operations shall be obligations of the fund.

(b) The assets of the fund shall be available only for the following purposes:

(1) loans which could be insured under this subchapter, and for advances in connection with such loans and loans previously made, as of May 11, 1973, under sections 904, 905, and 922 of this title;

(2) payment of principal when due (without interest) on outstanding loans to the Administrator from the Secretary of the Treasury for electrification and telephone purposes pursuant to section 903(a) of this title and payment of principal and interest when due on loans to the Administrator from the Secretary of the Treasury pursuant to section 934(a) of this title;

(3) payment of amounts to which the holder of notes is entitled on insured loans: *Provided*, That payments other than final payments need not be remitted to the holder until due or until the next agreed annual, semiannual, or quarterly remittance date;

(4) payment to the holder of insured notes of any defaulted installment or, upon assignment of the note of the Administrator at his request, the entire balance due on the note;

(5) purchase of notes in accordance with contracts of insurance entered into by the Administrator;

(6) payment in compliance with contracts of guarantee;

(7) payment of taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application, and transmittal of collections or necessary to obtain credit reports on applicants or borrowers, expenses for necessary services, including construction inspections, commercial appraisals, loan servicing, consulting business advisory or other commercial and technical services, and other program services, and other expenses and advances authorized in section 907 of this title in connection with insured loans. Such items may be paid in connection with guaranteed loans after or in connection with the acquisition of such loans or security thereof after default, to the extent determined to be necessary to protect the interest of the Government, or in connection with any other activity authorized in this chapter;

(8) payment of the purchase price and any costs and expenses incurred in connection with the purchase, acquisition, or operation of property pursuant to section 907 of this title.

(May 20, 1936, ch. 432, title III, § 302, as added May 7, 1971, Pub. L. 92–12, § 2, 85 Stat. 30, and amended May 11, 1973, Pub. L. 93–32, § 2, 87 Stat. 66.)

AMENDMENTS

1973—Pub. L. 93–32 substituted provisions setting out the liabilities of the Rural Electrification and Telephone Revolving Fund and the allowable purposes for which fund assets shall be available, for provisions that the monies in the rural telephone account should remain on deposit in the Treasury of the United States until disbursed.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–32 effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

§ 933. Same; deposit of moneys.

Moneys in the fund shall remain on deposit in the Treasury of the United States until disbursed. (May 20, 1936, ch. 432, title III, § 303, as added May 11, 1973, Pub. L. 93–32, § 2, 87 Stat. 67.)

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 939 of this title.

§ 934. Same; authorized financial transactions; interim notes; purchase of obligations for resale; sale of notes and certificates; liens.

(a) The Administrator is authorized to make and issue interim notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations of the fund and for making loans, advances and authorized expenditures out of the fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be agreed upon by the Administrator and the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the notes issued by the Administrator under this section. The Secretary of the Treasury is authorized and directed to purchase any notes of the Administrator issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which such securities may be issued under such Act, as amended, are extended to include the purchase of notes issued by the Administrator. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States: *Provided, however*, That such interim notes to the Secretary of the Treasury shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(b) The Secretary of the Treasury is authorized and directed to purchase for resale obligations insured through the fund when offered by the Administrator. Such resales shall be upon such terms and conditions as the Secretary of the Treasury shall determine. Purchases and resales by the Secretary of the Treasury hereunder shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(c) The Administrator may, on an insured basis or otherwise, sell and assign any notes in the fund

or sell certificates of beneficial ownership therein to the Secretary of the Treasury or in the private market. Any sale by the Administrator of notes individually or in blocks shall be treated as a sale of assets for the purposes of the Budget and Accounting Act, 1921, notwithstanding the fact that the Administrator, under an agreement with the purchaser or purchasers, holds the debt instruments evidencing the loans and holds or reinvests payments thereon as trustee and custodian for the purchaser or purchasers of the individual note or of the certificate of beneficial ownership in a number of such notes. Security instruments taken by the Administrator in connection with any notes in the fund may constitute liens running to the United States notwithstanding the fact that such notes may be thereafter held by purchasers thereof. (May 20, 1936, ch. 432, title III, § 304, as added May 11, 1973, Pub. L. 93–32, § 2, 87 Stat. 67.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (a), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended, which is classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and 757c, former sections 757c–1, sections 757c–2, 757c–3, 757c–4, 757d, 757e, 758, 760, and 764, former section 765, and sections 766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

The Budget and Accounting Act, 1921, referred to in subsec. (c), is classified to section 1 et seq. of Title 31, Money and Finance.

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 931, 932, 939 of this title.

§ 935. Insured loans.

(a) Authorization.

The Administrator is authorized to make insured loans under this subchapter and at the interest rates hereinafter provided to the full extent of the assets available in the fund, subject only to limitations as to amounts authorized for loans and advances as may be from time to time imposed by the Congress of the United States for loans to be made in any one year, which amounts shall remain available until expended: *Provided,* That the Congress in the annual appropriation Act may also authorize the transfer of any excess cash in the fund for deposit into the Treasury as miscellaneous receipts: *And provided further,* That any such loans and advances shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(b) Interest; standard rate; special rate.

Insured loans made under this subchapter shall bear interest at either 2 per centum per annum (hereinafter called the "special rate"), or 5 per centum per annum (hereinafter called the "standard rate"). Loans bearing the special rate shall be available only for an electric or telephone borrower which meets either of the following conditions:

(1) has an average consumer or subscriber density of two or fewer per mile, or

(2) has an average gross revenue per mile which is at least $450 below the average gross revenue per mile of REA-financed electric systems, in the case of electric borrowers, or at least $300 below the average gross revenue per mile of REA-financed telephone systems, in the case of telephone borrowers: *Provided, however,* That the Administrator may, in his sole discretion, make a loan at the special rate if he finds that the borrower:

(A) has experienced extenuating circumstances or extreme hardship; or

(B) cannot, in accordance with generally accepted management and accounting principles, produce net income or margins before interest at least equal to 150 per centum of its total interest requirements on all outstanding and proposed loans with an interest rate greater than 2 per centum per annum on the entire current loan, and still meet the objectives of this chapter. or

(C) cannot, in accordance with generally accepted management and accounting principles and without an excessive increase in the rates charged by such borrowers to their consumers or subscribers, provide service consistent with the objectives of this chapter.

(c) Sale and insurance of loans by Administrator.

Loans made under this section shall be insured by the Administrator when purchased by a lender. As used in this chapter, an insured loan is one which is made, held, and serviced by the Administrator, and sold and insured by the Administrator hereunder; such loans shall be sold and insured by the Administrator without undue delay. (May 20, 1936, ch. 432, title III, § 305, as added May 11, 1973, Pub. L. 93–32, § 2, 87 Stat. 68.)

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 939, 940 of this title.

§ 936. Guaranteed loans; accommodation and subordination of liens; assignability of guaranteed loans and related guarantees.

The Administrator may provide financial assistance to borrowers for purposes provided in this chapter by guaranteeing loans, in the full amount thereof, made by the Rural Telephone Bank, National Rural Utilities Cooperative Finance Corporation, and any other legally organized lending agency, or by accommodating or subordinating liens or mortgages in the fund held by the Administrator as owner or as trustee or custodian for purchases of notes from the fund, or by any combination of such guarantee, accommodation, or subordination. No fees or charges shall be assessed for any such guarantee, accommodation, or subordination. Guaranteed loans shall bear interest at the rate agreed upon by the borrower and the lender. Guaranteed loans, and accommodation and subordination of liens or mortgages, may be made concurrently with a loan insured at the standard rate. The amount of guaranteed loans shall be subject only to such limitations as to amounts as may

be authorized from time to time by the Congress of the United States: *Provided,* That any amounts guaranteed hereunder shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States. As used in this subchapter a guaranteed loan is one which is initially made, held, and serviced by a legally organized lending agency and which is guaranteed by the Administrator hereunder. A guaranteed loan, including the related guarantee, may be assigned to the extent provided in the contract of guarantee executed by the Administrator under this subchapter; the assignability of such loan and guarantee shall be governed exclusively by said contract of guarantee. (May 20, 1936, ch. 432, title III, § 306, as added May 11, 1973, Pub. L. 93–32, § 2, 87 Stat. 69, and amended Nov. 4, 1975, Pub. L. 94–124, § 1, 89 Stat. 677.)

AMENDMENTS

1975—Pub. L. 94–124 authorized the assignment of guaranteed loans and their related guarantees and inserted "initially" preceding "made, held, and serviced" in the provision defining guaranteed loans as that term is used in this subchapter.

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 939 of this title.

§ 937. Loans from other credit sources.

When it appears to the Administator that the loan applicant is able to obtain a loan for part of his credit needs from a responsible cooperative or other credit source at reasonable rates and terms consistent with the loan applicant's ability to pay and the achievement of this chapter's objectives, he may request the loan applicant to apply for and accept such a loan concurrently with a loan insured at the standard rate, subject, however, to full use being made by the Administrator of the funds made available hereunder for such insured loans under this subchapter. (May 20, 1936, ch. 432, title III, § 307, as added May 11, 1973, Pub. L. 93–32, § 2, 87 Stat. 70.)

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 939 of this title.

§ 938. Full faith and credit of the United States.

Any contract of insurance or guarantee executed by the Administrator under this subchapter shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder. (May 20, 1936, ch. 432, title III, § 308, as added May 11, 1973, Pub. L. 93–32, § 2, 87 Stat. 70, and amended Nov. 4, 1975, Pub. L. 94–124, § 2, 89 Stat. 677.)

AMENDMENTS

1975—Pub. L. 94–124 substituted "of which the holder had actual knowledge at the time it became a holder" for "of which the holder has actual knowledge".

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 939 of this title.

§ 939. Loan terms and conditions.

Loans made from or insured through the fund shall be for the same purposes and on the same terms and conditions as are provided for loans in subchapters I and II of this chapter except as otherwise provided in sections 933 to 938 inclusive. (May 20, 1936, ch. 432, title III, § 309, as added May 11, 1973, Pub. L. 93–32, § 2, 87 Stat. 70.)

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

§ 940. Refinancing of rural development loans.

At the request of the borrower, the Administrator is authorized and directed to refinance with loans which will be insured under this chapter at the interest rates provided in section 935 of this title any loans made for rural electric and telephone facilities under any provision of the Consolidated Farm and Rural Development Act. (May 20, 1936, ch. 432, title III, § 310, as added May 11, 1973, Pub. L. 93–32, § 2, 87 Stat. 70.)

REFERENCES IN TEXT

The Consolidated Farm and Rural Development Act, referred to in text, is classified to section 1921 et seq. of this title.

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

SUBCHAPTER IV.—RURAL TELEPHONE BANK [NEW]

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 931 of this title.

§ 941. Rural Telephone Bank.

(a) Establishment.

There is hereby established a body corporate to be known as the Rural Telephone Bank (hereinafter called the telephone bank).

(b) General purposes.

The general purposes of the telephone bank shall be to obtain an adequate supply of supplemental funds to the extent feasible from non-Federal sources, to utilize said funds in the making of loans under section 948 of this title, and to conduct its operations to the extent practicable on a self-sustaining basis.

(c) Status; payments in lieu of property taxes.

The telephone bank shall be deemed to be an instrumentality of the United States, and shall, for the purposes of jurisdiction and venue, be deemed a citizen and resident of the District of Columbia. The telephone bank is authorized to make payments to State, territorial, and local governments in lieu of property taxes upon real property and tangible personal property which was subject to State, territorial, and local taxation before acquisition by the telephone bank. Such payment may be in the amounts, at the times, and upon such terms as the telephone

bank deems appropriate but the telephone bank shall be guided by the policy of making payments not in excess of the taxes which would have been payable upon such property in the condition in which it was acquired. (May 20, 1936, ch. 432, title IV, § 401, as added May 7, 1971, Pub. L. 92–12, § 2, 85 Stat. 30.)

§ 942. General powers.

To carry out the specific powers herein authorized, the telephone bank shall have power to (a) adopt, alter, and use a corporate seal; (b) sue and be sued in its corporate name; (c) make contracts, leases, and cooperative agreements, or enter into other transactions as may be necessary in the conduct of its business, and on such terms as it may deem appropriate; (d) acquire, in any lawful manner, hold, maintain, use, and dispose of property: *Provided*, That the telephone bank may only acquire property needed in the conduct of its banking operations or pledged or mortgaged to secure loans made hereunder or in temporary operation or maintenance thereof: *Provided further*, That any such pledged or mortgaged property so acquired shall be disposed of as promptly as is consistent with prudent liquidation practices, but in no event later than five years after such acquisition; (e) accept gifts or donations of services or of property in aid of any of the purposes herein authorized; (f) appoint such officers, attorneys, agents, and employees, vest them with such powers and duties, fix and pay such compensation to them for their services as the telephone bank may determine; (g) determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid; (h) execute, in accordance with its bylaws, all instruments necessary or appropriate in the exercise of any of its powers; (i) collect or compromise all obligations assigned to or held by it and all legal or equitable rights accruing to it in connection with the payment of such obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and (j) exercise all such other powers as shall be necessary or incidental to carrying out its functions under this subchapter. (May 20, 1936, ch. 432, title IV, § 402, as added May 7, 1971, Pub. L. 92–12, § 2, 85 Stat. 30.)

§ 943. Special provisions governing telephone bank as a Federal agency until conversion of ownership, control, and operation.

Until the ownership, control, and operation of the telephone bank is converted as provided in section 950(a) of this title and not thereafter—

(a) Supervision and direction of Secretary of Agriculture; free postage and priority of debts restrictions.

the telephone bank shall be an agency of the United States and shall be subject to the supervision and direction of the Secretary of Agriculture (hereinafter called the Secretary): *Provided, however*. That the telephone bank shall at no time be entitled to transmission of its mail free of postage, nor shall it have the priority of the United States in the payment of debts out of bankrupt, insolvent, and decedents' estates:

(b) Use of facilities and services of employees of any agency of Department of Agriculture.

in order to perform its responsibilities under this subchapter, the telephone bank may partially or jointly utilize the facilities and the services of employees of the Rural Electrification Administration or of any other agency of the Department of Agriculture, without cost to the telephone bank;

(c) Wholly owned Government corporation.

the telephone bank shall be subject to the provisions of the Government Corporation Control Act, as amended, in the same manner and to the same extent as if it were included in the definition of "wholly owned Government corporation" as set forth in section 846 of Title 31.

(d) Appointment and compensation of personnel.

the telephone bank may without regard to the civil service [1] classification laws appoint and fix the compensation of such officers and employees of the telephone bank as it may deem necessary;

(e) Tort claims and litigation.

the telephone bank shall be subject to the provisions of sections 517 519, and 2679 of Title 28. (May 20, 1936, ch. 432, title IV, § 403, as added May 7, 1971, Pub. L. 92–12, § 2, 85 Stat. 31.)

REFERENCES IN TEXT

Government Corporation Control Act, as amended, referred to in subsec. (c), is classified to section 841 et seq. of Title 31, Money and Finance .

Civil service classification laws, referred to in subsec. (d), probably should refer to civil service and classification laws. The civil service laws are set forth in § 3301 et seq of Title 5, Government Organization and Employees. The classification laws are set forth in chapter 51 and subchapter III of chapter 53 of Title 5.

§ 944. Governor of telephone bank; functions, powers, and duties.

Subject to the provisions of section 950 of this title, the Administrator of the Rural Electrification Administration shall serve as the chief executive officer of the telephone bank (herein called the Governor of the telephone bank). Except as to matters specifically reserved to the Telephone Bank Board in this subchapter, the Governor of the telephone bank shall exercise and perform all functions, powers, and duties of the telephone bank. (May 20, 1936, ch. 432, title IV, § 404, as added May 7, 1971, Pub. L. 92–12, § 2, 85 Stat. 31.)

§ 945. Telephone Bank Board.

(a) Management of telephone bank; membership.

The management of the telephone bank, within the limitations prescribed by law, shall be vested in a board of directors (herein called the Telephone Bank Board) consisting of thirteen members.

(b) Federal agency and general public representation; additional compensation restriction.

The Administrator of the Rural Electrification Administration and the Governor of the Farm Credit Administration shall be members of the Telephone Bank Board. Five other members of the Telephone Bank Board shall be designated by the President to serve at his pleasure, three of whom shall be officers or employees of the Department of Agriculture but

[1] So in original, the word "and" probably should appear after "civil service".

not officers or employees of the Rural Electrification Administration, and two of whom shall be from the general public and not officers or employees of the Federal Government. The Administrator and other officers and employees of the Department of Agriculture and the Governor of the Farm Credit Administration shall serve as members without additional compensation.

(c) Selection of other Board members; initial appointment of eligible borrowers; service of appointees until election of successors.

As soon as practicable after May 7, 1971, the President of the Unted States shall appoint six additional members of the initial Telephone Bank Board to be selected from the directors, managers, and employees of any entities eligible to borrow from the telephone bank and of organizations controlled by such entities, with due regard to fair representation of the rural telephone systems of the Nation. The six members thus appointed shall serve until their successors shall have been duly elected in accordance with subsection (d) of this section.

(d) Same; interim election by eligible borrowers of representatives from cooperative-type and commercial-type entities; notice of election; voting: majority, proxies; term.

Within twelve months following the appointment of the six members of the initial Board as provided in subsection (c) of this section, the Governor of the telephone bank shall call a meeting of all entities then eligible to borrow from the telephone bank and organizations controlled by such entities for the purpose of electing members of the Telephone Bank Board. Each such entity and organization shall be entitled to notice of and shall have one noncumulative vote at said meeting. Six members of the Telephone Bank Board shall be elected for a two-year term, three from among the directors, managers, and employees of cooperative-type entities eligible to vote and organizations controlled by such entities, and three from among the managers, directors, and employees of commercial-type entities eligible to vote and organizations controlled by such entities. These six members shall be elected by majority vote of the entities and organizations eligible to vote and such entities and organizations may vote by proxy.

(e) Same; election of representatives of cooperative-type and commercial-type entities and organizations; voting; majority; proxy voting; cumulative voting prohibited.

Thereafter, the cooperative-type entities and organizations holding class B and class C stock, voting as a separate class, shall elect three directors to represent their class by a majority vote of the stockholders voting in such class; and the commercial-type entities and organizations holding class B and class C stock, voting as a separate class, shall elect three directors to represent their class by a majority vote of the stockholders voting in such class. Limited proxy voting may be permitted, as authorized by the bylaws of the telephone bank. Cumulative voting shall not be permitted.

(f) Service of member after expiration of term; compensation; travel and other expenses.

Any Telephone Bank Board member may continue to serve after the expiration of the term for which he is elected until his successor has been elected and has qualified. Telephone Bank Board members designated from the general public, pursuant to subsection (b) of this section, or appointed or elected pursuant to subsections (c), (d), and (e) of this section, shall receive $100 for each day or part thereof, not to exceed one hundred days per year for the first three years after May 7, 1971, and not to exceed fifty days per year thereafter, spent in the performance of official duties, and shall be reimbursed for travel and other expenses in such manner and subject to such limitations as the Telephone Bank Board may prescribe.

(g) Bylaws.

The Telephone Bank Board shall prescribe bylaws, not inconsistent with law, regulating the manner in which the telephone bank's business shall be conducted, its directors and officers elected, its stock issued, held, and disposed of, its property transferred, its bylaws amended, and the powers and privileges granted to it by law exercised and enjoyed.

(h) Meetings: regular and special.

The Telephone Bank Board shall meet at such times and places as it may fix and determine, but shall hold at least four regularly scheduled meetings a year, and special meetings may be held on call in the manner specified in the bylaws of the telephone bank.

(i) Annual report; transmittal to Congress.

The Telephone Bank Board shall make an annual report to the Secretary for transmittal to the Congress on the administration of this subchapter and any other matters relating to the effectuation of the policies of this subchapter, including recommendations for legislation. (May 20, 1936, ch. 432, title IV, § 405, as added May 7, 1971, Pub. L. 92–12, § 2, 85 Stat. 32, and amended May 11, 1973, Pub. L. 93–32, § 4, 87 Stat. 70.)

AMENDMENTS

1973—Subsec. (e). Pub. L. 93–32 substituted provisions directing that the cooperative-type entities and organizations holding class B annd class C stock, voting as a separate class, elect three directors to represent their class by a majority of the stockholders voting in such class and that the commercial-type entities and organizations holding class B and class C stock, voting as a separate class, elect three directors to represent their class by a majority of the stockholders voting in such class, for provisions that three directors be elected from among the directors, managers, and employees of cooperative-type entities and organizations controlled by such entities holding class B or class C stock and that three directors be elected from among the directors, managers, and employees of commercial-type entities and organizations controlled by such entities holding class B or class C stock, and added provisions prohibiting cumulative voting.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–32 effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 950 of this title.

§ 946. Capitalization.

(a) Federal and borrower subscriptions; Federal limitation; report to President, transmittal to Congress; net collection proceeds.

The telephone bank's capital shall consist of capital subscribed by the United States, by borrowers from the telephone bank, by corporations and public

bodies eligible to become borrowers from the telephone bank, and by organizations controlled by such borrowers, corporations, and public bodies. Beginning with the fiscal year 1971 and for each fiscal year thereafter, the United States shall furnish capital for the purchase of class A stock and there are hereby authorized to be appropriated such amounts, not to exceed $30,000,000 annually, for such purchase until such class A stock shall equal $300,000,000: *Provided,* That on or before July 1, 1975, the Secretary shall make a report to the President for transmittal to the Congress on the status of capitalization of the telephone bank by the United States with appropriate recommendations. As used in this section and section 931 of this title, the term "net collection proceeds" shall be deemed to mean payments from and after July 1, 1969, of principal and interest on loans heretofore or hereafter made under section 922 of this title, less an amount representing interest payable to the Secretary of the Treasury on loans to the Administrator for telephone purposes pursuant to section 903(a) of this title.

(b) Stock classification; voting stock; one vote rule.

The capital stock of the telephone bank shall consist of three classes, class A, class B, and class C, the rights, powers, privileges, and preferences of the separate classes to be as specified, not inconsistent with law, in the bylaws of the telephone bank. Class B and class C stock shall be voting stock, but no holder of said stock shall be entitled to more than one vote, nor shall class B and class C stockholders, regardless of their number, which are owned or controlled by the same person, group of persons, firm, association, or corporation, be entitled in any event to more than one vote.

(c) Class A stock; issuance to Administrator and redemption; cumulative return.

Class A stock shall be issued only to the Administrator of the Rural Electrification Administration on behalf of the United States in exchange for capital furnished to the telephone bank pursuant to subsection (a) of this section, and such class A stock shall be redeemed and retired by the telephone bank as soon as practicable after June 30, 1985, but not to the extent that the Telephone Bank Board determines that such retirement will impair the operations of the telephone bank: *Provided,* That the minimum amount of class A stock that shall be retired each year after said date and after the amount of class A and class B stock issued totals $400,000,000, shall equal the amount of class B stock sold by the telephone bank during such year. Class A stock shall be entitled to a return, payable from income, at the rate of 2 per centum per annum on the amounts of said class A stock actually paid into the telephone bank. Such return shall be cumulative and shall be payable annually into miscellaneous receipts of the Treasury.

(d) Class B stock; borrowers as holders; dividend prohibition; patronage refunds.

Class B stock shall be held only by recipients of loans under section 948 of this title. Borrowers receiving loan funds pursuant to section 948(a)(1) or (2) of this title shall be required to invest in class B stock 5 per centum of the amount of loan funds so provided. No dividends shall be payable on class B stock. All holders of class B shall be entitled to patronage refunds in class B stock under terms and conditions to specified in the bylaws of the telephone bank.

(e) Class C stock; borrowers as purchasers; dividends.

Class C stock shall be available for purchase and shall be held only by borrowers, or by corporations and public bodies eligible to borrow under section 948 of this title, or by organizations controlled by such borrowers, corporations and public bodies, and shall be entitled to dividends in the manner specified in the bylaws of the telephone bank. Such dividends shall be payable only from income and, until all class A stock is retired, shall not exceed the current average rate payable on its telephone debentures.

(f) Special fund equivalents.

If a firm, association, corporation, or public body is not authorized under the laws of the jurisdiction in which it is organized to acquire stock of the telephone bank, the telephone bank shall, in lieu thereof, permit such organization to pay into a special fund of the telephone bank a sum equivalent to the amount of stock to be purchased. Each reference in this subchapter to capital stock, or to class B, or class C stock, shall include also the special fund equivalents of such stock, and to the extent permitted under the laws of the jurisdiction in which such organization is organized, a holder of special fund equivalents of class B, or class C stock, shall have the same rights and status as a holder of class B or class C stock, respectively. The rights and obligations of the telephone bank in respect of such special fund equivalent shall be identical to its rights and obligations in respect of class B or class C stock, respectively.

(g) Patronage refunds from remaining earnings after provision for operating expenses, reserves for losses, payments in lieu of taxes, and returns on class A and B stock.

After payment of all operating expenses of the telephone bank, including interest on its telephone debentures, setting aside appropriate funds for reserves for losses, and making payments in lieu of taxes, and returns on class A stock as provided in subsection (c) of this section, and on class C stock, the Telephone Bank Board shall annually set aside the remaining earnings of the telephone bank for patronage refunds in accordance with the bylaws of the telephone bank. (May 20, 1936, ch. 432, title IV, § 406, as added May 7, 1971, Pub. L. 92–12, § 2, 85 Stat. 33, and amended May 11, 1973, Pub. L. 93–32, § 5, 87 Stat. 70.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–92 struck out "from net collection proceeds in the rural telephone account created under subchapter III of this chapter" following "appropriated".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–32 effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 931, 948, 950 of this title.

§ 947. Borrowing power; telephone debentures; issuance; interest rates; terms and conditions; ratio to paid-in capital and retained earnings; investments in debentures; debentures as security; purchase and sale of debentures by the Secretary of the Treasury; treatment as public debt transactions of the United States; exclusion of transactions from budget totals.

(a) The telephone bank is authorized to obtain funds through the public or private sale of its bonds, debentures, notes, and other evidences of indebtedness (herein collectively called telephone debentures). Telephone debentures shall be issued at such times, bear interest at such rates, and contain such other terms and conditions as the Telephone Bank Board shall determine: *Provided, however,* That the amount of the telephone debentures which may be outstanding at any one time pursuant to this section shall not exceed twenty times the paid-in capital and retained earnings of the telephone bank. Telephone debentures shall not be exempt, either as to principal or interest, from any taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State or local taxing authority. Telephone debentures shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority and control of the United States or any officer or officers thereof.

(b) The Telephone Bank is also authorized to issue telephone debentures to the Secretary of the Treasury, and the Secretary of the Treasury may in his discretion purchase any such debentures, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act as now or hereafter in force are extended to include such purchases. Each purchase of telephone debentures by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the telephone debentures acquired by him under this subsection. All purchases and sales by the Secretary of the Treasury of such debentures under this subsection shall be treated as public debt transactions of the United States.

(c) Purchases and resales by the Secretary of the Treasury as authorized in subsection (b) of this section shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States. (May 20, 1936, ch. 432, title IV, § 407, as added May 7, 1971, Pub. L. 92–12, § 2, 85 Stat. 34, and amended June 30, 1972, Pub. L. 92–324, § 2, 86 Stat. 390; May 11, 1973, Pub. L. 93–32, §§ 6, 7, 87 Stat. 70.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (b), is classified to sections 745, 752–754b, 757, 757b–758, 760, 764–766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–32, § 6, increased from eight times the paid-in capital and retained earnings of the telephone bank to twenty times the paid-in capital and retained earnings of the telephone bank the amount of telephone debentures which may be outstanding at any one time and struck out provisions directing the insertion by the telephone bank in all its telephone debentures of appropriate language indicating that such telephone debentures together with interest thereon are not guaranteed by the United States and do not constitute a debt or obligation of the United States or of any agency or instrumentality thereof other than the telephone bank.

Subsec. (c). Pub. L. 93–32, § 7, added subsec. (c).

1972—Pub. L. 92–324 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–32 effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–324 effective June 30, 1972, see section 4 of Pub. L. 92–324, set out as a note under section 921b of this title.

§ 948. Lending power.

(a) Loans for prescribed purposes; requisite conditions.

The Governor of the telephone bank is authorized on behalf of the telephone bank to make loans, in conformance with policies approved by the Telephone Bank Board, to corporations and public bodies which have received a loan or loan commitment pursuant to section 922 of this title, or which have been certified by the Administrator to be eligible for such a loan or loan commitment, (1) for the same purposes and under the same limitations for which loans may be made under section 922 of this title, (2) for the purposes of financing, or refinancing, the construction, improvement, expansion, acquisition, and operation of telephone lines, facilities, or systems, in order to improve the efficiency, effectiveness, or financial stability of borrowers financed under section 922 of this title and this section, and (3) for the purchase of class B stock required to be purchased under section 946(d) of this title but not for the purchase of class C stock, subject, as to the purposes set forth in (2) hereof, to the following provisos: That in the case of any such loan for the acquisition of telephone lines, facilities, or systems, the acquisition shall be approved by the Secretary, the location and character thereof shall be such as to improve the efficiency, effectiveness, or financial stability of the telephone system of the borrower, and in respect of exchange facilities for local services, the size of each acquisition shall not be greater than the borrower's existing system at the time it receives its first loan from the telephone bank, taking into account the number of subscribers served, miles of line, and plant investment. Loans and advances made under this section shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(b) Terms and conditions of loans; restrictions on loans.

Loans under this section shall be on such terms and conditions as the Governor of the telephone bank shall determine, subject, however, to the following restrictions:

(1) Amortization period.

All loans made under this section shall be fully amortized over a period not to exceed fifty years.

(2) Preference in loans; election of loans for telephone system with certain subscriber density per mile.

Funds to be loaned under this chapter to any borrower shall be loaned under this section in preference to section 922 of this title if the borrower is eligible for such a loan and funds are available therefor. Notwithstanding the foregoing or any other provision of law, all loans made pursuant to this chapter for facilities for telephone systems with an average subscriber density of three or fewer per mile shall be made under section 922 of this title; but this provision shall not preclude the making of such loans from the telephone bank at the election of the borrower.

(3) Interest rate.

Loans under this section shall bear interest at the "cost of money rate". The cost of money rate is defined as the average cost of moneys to the telephone bank as determined by the Governor, but not less than 5 per centum per annum.

(4) Adequacy of security; repayment within agreed period; net income production of stated percentage of interest on loans: waiver.

Loans shall not be made under this section unless the Governor of the telephone bank finds and certifies that in his judgment (i) the security therefor is reasonably adequate and such loan will be repaid within the time agreed, and (ii) the borrower has the capability of producing net income or margins before interest at least equal to 150 per centum of the interest requirements on all of its outstanding and proposed loans, or such higher per centum as may be fixed from time to time by the Telephone Bank Board in order to allocate available funds equitably among borrowers or to improve the marketability of the telephone debentures: *Provided, however,* That the Governor of the telephone bank may waive the requirement of (ii) above in any case if he shall determine (and set forth his reasons therefor in writing) that this requirement would prevent emergency restoration of the borrower's system or otherwise result in severe hardship to the borrower.

(5) Certificate of convenience and necessity required from State regulatory agency or statement of telephone bank's Governor of nonduplication of lines, facilities, or systems.

No loan shall be made in any State which now has or may hereafter have a State regulatory body having authority to regulate telephone service and to require certificates of convenience and necessity to the applicant unless such certificate from such agency is first obtained. In a State in which there is no such agency or regulatory body legally authorized to issue such certificates to the applicant, no loan shall be made under this section unless the Governor of the telephone bank shall determine (and set forth his reasons therefor in writing) that no duplication of lines, facilities, or systems, providing reasonably adequate services will result therefrom.

(6) Definitions: telephone service; telephone lines, facilities, or systems.

As used in this section, the term telephone service shall have the meaning prescribed for this term in section 924(a) of this title, and the term telephone lines, facilities, or systems shall mean lines, facilities, or systems used in the rendition of such telephone service.

(7) Sale or disposal of property, rights, or franchises prior to repayment of loan.

No borrower of funds under this section shall, without aproval of the Governor of the telephone bank under rules established by the Telephone Bank Board, sell or dispose of its property, rights, or franchises, acquired under the provisions of this chapter, until any loan obtained from the telephone bank, including all interest and charges, shall have been repaid.

(c) Payment schedule; adjustment; loan period.

The Governor of the telephone bank is authorized under rules established by the Telephone Bank Board to adjust, on an amortized basis, the schedule of payments of interest or principal of loans made under this section upon his determination that with such readjustment there is reasonable assurance of repayment: *Provided, however,* That no adjustment shall extend the period of such loans beyond fifty years. (May 20, 1936, ch. 432, title IV, § 408, as added May 7, 1971, Pub. L. 92–12, § 2, 85 Stat. 35, and amended May 11, 1973, Pub. L. 93–32, §§ 8, 9, 87 Stat. 70, 71.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–32, § 8, inserted "or which have been certified by the Administrator to be eligible for such a loan or loan commitments," preceding clause (1) and added provision that loans and advances not be included in the totals of the budget of the United States Government and that such loans and advances be exempt from any general limitation imposed by statute expenditures and net lending (budget outlays) of the United States.

Subsec. (b)(3). Pub. L. 93–32, § 9, substituted provisions for a "cost of money rate" of interest with a "not less than 5 per centum per annum" limit on such rate, for provisions for interest "at the highest rate which meets the requirements set forth in paragraph (4), consistent with the borrower's ability to pay such interest rate and with achievement of the objectives of this chapter" with a "not less than 4 per centum per annum" limit on such rate.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–32 effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 941, 946, 950, 950b of this title.

§ 949. Telephone bank receipts; availability for obligations and expenditures.

Any receipts from the activities of the telephone bank shall be available for all obligations and ex-

penditures of the telephone bank. (May 20, 1936, ch. 432, title IV, § 409, as added May 7, 1971, Pub. L. 92–12, § 2, 85 Stat. 36.)

§ 950. Conversion of ownership, control, and operation of telephone bank.

(a) Transfer of powers and authority from Administrator to Telephone Bank Board; cessation of Presidential appointees as Board members and reduction in number of Board members; status of telephone bank.

Whenever fifty-one per centum of the maximum amount of class A stock issued to the United States and outstanding at any time after June 30, 1985, has been fully redeemed and retired pursuant to section 946(c) of this title—

(1) the powers and authority of the Governor of the telephone bank granted to the Administrator of the Rural Electrification Administration by this subchapter shall vest in the Telephone Bank Board, and may be exercised and performed through the Governor of the telephone bank, to be selected by the Telephone Bank Board, and through such other employees as the Telephone Bank Board shall designate;

(2) the five members of the Telephone Bank Board designated by the President pursuant to section 945(b) of this title shall cease to be members, and the number of Board members shall be accordingly reduced to eight unless other provision is thereafter made in the bylaws of the telephone bank;

(3) the telephone bank shall cease to be an agency of the United States, but shall continue in existence in perpetuity as an instrumentality of the United States and as a banking corporation with all of the powers and limitations conferred or imposed by this subchapter except such as shall have lapsed pursuant to the provisions of this subchapter.

(b) Restrictions of section 948(a)(2) of this title inapplicable to loans upon redemption and retirement of class A stock.

When all class A stock has been fully redeemed and retired, loans made by the telephone bank shall not continue to be subject to the restrictions prescribed in the provisos to section 948(a)(2) of this title.

(c) Congressional review.

Congress reserves the right to review the continued operations of the telephone bank after all class A stock has been fully redeemed and retired. (May 20, 1936, ch. 432, title IV, § 410, as added May 7, 1971, Pub. L. 92–12, § 2, 85 Stat. 36.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 943, 944 of this title.

§ 950a. Liquidation or dissolution of telephone bank.

In the case of liquidation or dissolution of the telephone bank, after the payment or retirement, as the case may be, first, of all liabilities; second, of all class A stock at par; third, of all class B stock at par; fourth, of all class C stock at par; then any surpluses and contingency reserves existing on the effective date of liquidation or dissolution of the telephone bank shall be paid to the holders of class A and class B stock issued and outstanding before the effective date of such liquidation or dissolution, pro rata. (May 20, 1936, ch. 432, title IV, § 411, as added May 7, 1971, Pub. L. 92–12, § 2, 85 Stat. 37.)

§ 950b. Borrower net worth.

Except as provided in subsection (b)(2) of section 948 of this title, notwithstanding any other provision of law, a loan shall not be made under section 922 of this title to any borrower which during the immediately preceding year had a net worth in excess of 20 per centum of its assets unless the Administrator finds that the borrower cannot obtain such a loan from the telephone bank or from other reliable sources at reasonable rates of interest and terms and conditions. (May 20, 1936, ch. 432, title IV, § 412, as added May 7, 1971, Pub. L. 92–12, § 2, 85 Stat. 37.)

Chapter 33.—FARM TENANCY

SUBCHAPTER III.—LAND CONSERVATION AND LAND UTILIZATION

Sec.
1010a. Soil, water and related resource data; report [New].

SUBCHAPTER I.—TENANT PURCHASE LOANS AND MORTGAGE INSURANCE

§ 1006a. Loans to homestead or desertland entrymen and purchasers of lands in reclamation projects; security; first repayment installment.

The Secretary of Agriculture is authorized to make a loan or loans for any purpose authorized by and in accordance with the terms of the Bankhead-Jones Farm Tenant Act, as amended, or the Act of August 28, 1937, as amended, to any person eligible for assistance under said Acts who has made or makes a homestead or desertland entry on public land or who has contracted for or contracts for the purchase of other land of the United States in a reclamation project pursuant to the applicable provisions of the homestead and reclamation laws. Any such loans required by the Secretary of Agriculture or by law to be secured by a real-estate mortgage may be secured by a mortgage contract which shall create a lien against the land in favor of the United States acting through the Secretary of Agriculture and any patent thereafter issued shall recite the existence of such lien. The first installment for the repayment of any such loan or any other loan made under the Bankhead-Jones Farm Tenant Act, as amended, or the Act of August 28, 1937, as amended, to the owner of a newly irrigated farm in a reclamation project or to an entryman under the desertland laws, may be deferred for a period of not to exceed two years from the date of the first advance under such loan. (As amended Aug. 30, 1972, Pub. L. 92–419, title VI, § 602, 86 Stat. 675.)

REFERENCES IN TEXT

The Bankhead-Jones Farm Tenant Act, as amended, referred to in text, means act July 22, 1937, ch. 517, 50 Stat. 522, which was classified to sections 1001 to 1005d,

1006, 1006d, 1007, 1008 to 1012, 1014 to 1025, and 1027 to 1029 of this title.

The Act of August 28, 1937, as amended, referred to in text, is classified to sections 590r to 590x of title 16.

Desertland laws, referred to in the text, means Desert Land Act of 1877, which is classified to sections 321–323, 325, and 327–329 of Title 43, Public Lands.

AMENDMENTS

1972—Pub. L. 92–419 authorized loans to desertland entrymen and provided for first repayment installment of a loan to an entryman under the desertland laws.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1006b of this title; title 43 section 451f.

SUBCHAPTER III.—LAND CONSERVATION AND LAND UTILIZATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 16 section 1609.

§ 1010. Land conservation and land utilization.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1931, 1981 of this title.

§ 1010a. Soil, water and related resource data; report.

In recognition of the increasing need for soil, water, and related source data for land conservation, use, and development, for guidance of community development for a balanced rural-urban growth, for identification of prime agriculture producing areas that should be protected, and for use in protecting the quality of the environment, the Secretary of Agriculture is directed to carry out a land inventory and monitoring program to include, but not be limited to, studies and surveys of erosion and sediment damages, flood plain identification and utilization, land use changes and trends, and degradation of the environment resulting from improper use of soil, water, and related resources. The Secretary shall issue at not less than five-year intervals a land inventory report reflecting soil, water, and related resource conditions. (Pub. L. 92–419, title III, § 302, Aug. 30, 1972, 86 Stat. 670.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 1602.

§ 1011. Powers of Secretary of Agriculture.

* * * * *

(e) To cooperate with Federal, State, territorial, and other public agencies and local nonprofit organizations in developing plans for a program of land conservation and land utilization, to assist in carrying out such plans by means of loans to State and local public agencies and local nonprofit organizations designated by the State legislature or the Governor, to conduct surveys and investigations relating to conditions and factors affecting, and the methods of accomplishing most effectively the purposes of this subchapter, and to disseminate information concerning these activities. Loans to State and local public agencies and to local nonprofit organizations shall be made only if such plans have been submitted to, and not disapproved within 45 days by, the State agency having supervisory responsibility over such plans, or by the Governor if there is no such State agency. No appropriation shall be made for any single loan under this subsection in excess of $250,000 unless such loan has been approved by resolutions adopted by the Committee on Agriculture and Forestry of the Senate and the Committee on Agriculture of the House of Representatives. Loans under this subsection shall be made under contracts which will provide, under such terms and conditions as the Secretary deems appropriate, for the repayment thereof in not more than 30 years, with interest at the average rate, as determined by the Secretary of the Treasury, payable by the Treasury on its marketable public obligations outstanding at the beginning of the fiscal year in which the loan is made, which are neither due nor callable for redemption for 15 years from date of issue. Repayment of principal and interest on such loans shall begin within 5 years. In providing assistance for carrying out plans developed under this subchapter, the Secretary shall be authorized to bear such proportionate share of the costs of installing any works of improvement applicable to public water-based fish and wildlife or recreational development as is determined by him to be equitable in consideration of national needs and assistance authorized for similar purposes under other Federal programs: *Provided*, That all engineering and other technical assistance costs relating to such development may be borne by the Secretary: *Provided further*, That when a State or other public agency or local nonprofit organization participating in a plan developed under this subchapter agrees to operate and maintain any reservoir or other area included in a plan for public water-based fish and wildlife or recreational development, the Secretary shall be authorized to bear not to exceed one-half of the costs of (a) the land, easements, or rights-of-way acquired or to be acquired by the State or other public agency or local nonprofit organization for such reservoir or other area, and (b) minimum basic facilities needed for public health and safety, access to, and use of such reservoir or other area for such purposes: *Provided further*, That in no event shall the Secretary share any portion of the cost of installing more than one such work of improvement for each seventy-five thousand acres in any project; and that any such public water-based fish and wildlife or receptional development shall be consistent with any existing comprehensive statewide outdoor recreation plan found adequate for purposes of the Land and Water Conservation Fund Act of 1965; and that such cost-sharing assistance for any such development shall be authorized only if the Secretary determines that it cannot be provided under other existing authority.

The Secretary shall also be authorized in providing assistance for carrying out plans developed under this subchapter:

(1) To provide technical and other assistance, and to pay for any storage of water for present or anticipated future demands or needs for rural community water supply included in any reservoir structure constructed or modified pursuant to such plans: *Provided*, That the cost of water storage to meet future demands may not exceed 30 per centum of the total estimated cost of such reservoir structure and the public agency or local nonprofit organization shall give reasonable assurances, and there is evidence, that such demands for the use of such storage will be made within a period of time which will permit repayment of the cost of such water supply

storage within the life of the reservoir structure: *Provided further,* That the public agency or local nonprofit organization prior to initiation or construction or modification of any reservoir structure including water supply storage, make provision satisfactory to the Secretary to pay for not less than 50 per centum of the cost of storage for present water supply demands, and all of the cost of storage for anticipated future demands: *And provided further,* That the cost to be borne by the public agency or local nonprofit organization for anticipated future demands may be repaid within the life of the reservoir structure but in no event to exceed fifty years after the reservoir structure is first used for the storage of water for anticipated future water supply demands except that (1) no payment on account of such cost need be made until such supply is first used, and (2) no interest shall be charged on such cost until such supply is first used, but in no case shall the interest-free period exceed ten years. The interest rate used for purposes of computing the interest on the unpaid balance shall be the average rate, as determined by the Secretary of the Treasury, payable by the Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which the advancement for such water supply is first made, which are neither due nor callable for redemption for fifteen years from date of issue;

(2) To provide, for the benefit of rural communities, technical and other assistance and such proportionate share of the costs of installing measures and facilities for water quality management, for the control and abatement of agriculture-related pollution, for the disposal of solid wastes, and for the storage of water in reservoirs, farm ponds, or other impoundments, together with necessary water withdrawal appurtenances, for rural fire protection, as is determined by the Secretary to be equitable in consideration of national needs and assistance authorized for similar purposes under other Federal programs.

* * * * *

(As amended Aug. 30, 1972, Pub. L. 92–419, title III, § 301, 86 Stat. 669.)

AMENDMENTS

1972—Subsec. (c). Pub. L. 92–419 added par. (1) and (2) provisions which authorized Secretary of Agriculture to provide Federal assistance for water storage and for water quality management, for control and abatement of agriculture-related pollution, for disposal of solid wastes, and for storage of water in reservoirs, farm ponds, or other impoundments, together with necessary water withdrawal appurtenances, for rural fire protection.

DELEGATION OF FUNCTIONS

Authority of the President under subsec. (c) of this section to transfer to Federal, State, or Territorial agencies lands acquired by the Secretary of Agriculture under subsec. (a) of this section delegated to the Administrator of general services, see section 1(14) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1012, 1033, 1931, 1981 of this title; title 16 sections 441h, 478a; title 30 section 601.

§ 1012. Payments to counties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1931, 1981 of this title.

§ 1013a. Benefits extended to Puerto Rico and Virgin Islands; county defined; payments to Governor or fiscal agent of county.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1931 of this title.

Chapter 34.—SUGAR PRODUCTION AND CONTROL

SUBCHAPTER I.—DEFINITIONS

§ 1101. Definitions.

For the purposes of this chapter—

* * * * *

(j) The term "quota", depending upon the context, means (1) that quantity of sugar or liquid sugar which may be brought or imported into the continental United States, for consumption therein, during any calendar year, from Hawaii, Puerto Rico, or a foreign country or group of foreign countries; (2) that quantity of sugar or liquid sugar produced from sugar beets or sugarcane grown in the continental United States which, during any calendar year, may be shipped, transported, or marketed in interstate commerce, or in competition with sugar or liquid sugar shipped, transported, or marketed in interstate or foreign commerce; or (3) that quantity of sugar or liquid sugar which may be marketed in Hawaii or in Puerto Rico, for consumption therein, during any calendar year.

* * * * *

(o) The term "continental United States" means the States (except Hawaii) and the District of Columbia.

(p) The term "mainland cane sugar area" means the States of Florida and Louisiana. (As amended Oct. 14, 1971, Pub. L. 92–138, § 2, 85 Stat. 379.)

AMENDMENTS

1971—Subsec. (j). Pub. L. 92–138, § 2(1). struck out "the Virgin Islands," following "Puerto Rico,".

Subsec. (o). Pub. L. 92–138, § 2(2), substituted "the States (except Hawaii)" for "the 49 States".

Subsec. (p). Pub. L. 92–138, § 2(3), added subsec. (p).

EFFECTIVE DATE OF 1971 AMENDMENT

Section 19 of Pub. L. 92–138 provided that: "The provisions of this Act (amending sections 1101, 1115, 1116 (a), (b), 1117, 1119, 1121, 1122, 1132, 1133, 1137, 1153, 1154, and 1158 of this title and section 4501(b) of Title 26] shall become effective on January 1, 1972, except that the amendments made by sections 3, 4, 5, and 7(2) of this Act [amending sections 1111, 1112, 1114 and adding section 1116(d) of this title] shall become effective on the date of enactment of this Act [Oct. 14, 1971] for purposes of actions relating to 1972 and subsequent years."

SHORT TITLE

Section 1 of Pub. L. 92–138 provided: "That this Act [which amended sections 1101, 1111, 1112, 1114–1117, 1119, 1121, 1122, 1132, 1133, 1137, 1153, 1154, and 1158 of this title and section 4501(b) of Title 26 and enacted and amended provisions set out as notes under this section] may be cited as the 'Sugar Act Amendments of 1971'."

TERMINATION DATE

Section 412 of act Aug. 8, 1947, as amended by act Sept. 1, 1951, ch. 379, § 5, 65 Stat. 320, renumbered and amended by act May 29, 1956, ch. 342, §§ 17, 18, 70 Stat. 221; July 6, 1960, Pub. L. 86–592, § 1, 74 Stat. 330; Mar. 31, 1961, Pub. L. 87–15, § 1, 75 Stat. 40. July 13, 1962, Pub. L. 87–535, § 16, 76 Stat. 166; Nov. 8, 1965, Pub. L. 89–331, § 12(5), 79 Stat. 1280; Oct. 14, 1971, Pub. L. 92–138, § 18(a), 85 Stat. 390, provided that:

"The powers vested in the Secretary under this Act [chapter] shall terminate on December 31, 1974, or on March 31 of the year of termination of the tax imposed by section 4501(a) of the Internal Revenue Code of 1954 [subchapter III of this chapter] whichever is the earlier date, except that the Secretary shall have power to make payments under title III [subchapter III of this chapter]—

"(1) under programs applicable to the crop year 1974 and previous crop years, if the powers vested in the Secretary otherwise terminate on December 31, 1974, or

"(2) under programs applicable to the crop years preceding the calendar year in which the tax imposed under section 4501(a) of the Internal Revenue Code of 1954 [section 4501(a) of Title 26] terminates, if the powers vested in the Secretary otherwise terminate before December 31, 1974."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1155 of this title; title 22 sections 1261, 1395.

SUBCHAPTER II.—QUOTA PROVISIONS

§ 1111. Annual estimate of consumption in continental United States; price objective; "parity index" and "wholesale price index" defined.

(a) The Secretary shall determine for each calendar year, beginning with 1972, the amount of sugar needed to meet the requirements of consumers in the continental United States and to attain the price objective set forth in subsection (b) of this section. Such determination shall be made during October of the year preceding the calendar year for which the determination is being made and at such other times thereafter as may be required to attain such price objective.

(b) The price objective referred to in subsection (a) of this section is a price for raw sugar which would maintain the same ratio between such price and the average of the parity index (1967=100) and the wholesale price index (1967=100) as the ratio that existed between (1) the simple average of the monthly price objective calculated for the period September 1, 1970, through August 31, 1971, under this section as in effect immediately prior to the date of enactment of the Sugar Act Amendments of 1971, and (2) the simple average of such two indexes for the same period.

(c) For purposes of subsection (b) of this section—

(1) The term "parity index (1967=100)" means the Index of Prices Paid by Farmers for Commodities and Services, including Interest, Taxes, and Farm Wage Rates, as published monthly by the Department of Agriculture.

(2) The term "wholesale price index" means such index as determined monthly by the Department of Labor.

(As amended Oct. 14, 1971, Pub. L. 92–138, § 3, 85 Stat. 379.)

REFERENCE IN TEXT

Date of enactment of the Sugar Act Amendments of 1971, referred to in subsec. (b)(1), refers to enactment of Pub. L. 92–138 on Oct. 14, 1971.

AMENDMENTS

1971—Pub. L. 92–138, in revising provisions for determination of annual estimate of sugar consumption in continental United States, incorporated in subsec. (a) existing provisions of first sentence, substituting calendar year 1972 for calendar year 1948 as initial year for making the determination, stating as a purpose the attainment of the subsec. (b) price objective, and substituting provision for making such determination during October of year preceding calendar year for which determination is being made and at other times thereafter to attain the price objective for prior determinations made during last three months of each year for succeeding calendar year (first ten days when made for calendar year 1948) and other times to meet needs of consumers in continental United States; substituted subsec. (b) definition of price objective as a price for raw sugar which would maintain same ratio between such price and average of parity index (1967=100) and wholesale price index (1967=100) as ratio that existed between simple average of monthly price objectives for period Sept. 1, 1970, through Aug. 31, 1971, under provisions of this section as in effect prior to Oct. 14, 1971, and simple average of such two indexes for same period for former second sentence provisions for making the determination using as a basis quantity of direct-consumption sugar distributed for consumption and allowances for deficiency or surplus in sugar inventories, changes in consumption because of population and demand changes, and protection of consumer and producer welfare and relationship between price for raw sugar resulting from such determination and parity index as compared with relationship between average price of raw sugar during three-year period 1957, 1958, and 1959, and average of parity indexes during such period; substituted subsec. (c)(1) definition of "parity index (1967=100)" for former third sentence defining the term "parity index" as the index determined under section 1301 of this title, as published monthly by the Department of Agriculture; and added subsec. (c)(2).

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–138 effective Oct. 14, 1971, for purposes of actions relating to 1972 and subsequent years, see section 19 of Pub. L. 92–138, set out as a note under section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1112, 1117, 1120 of this title.

§ 1112. Establishment or revision of quotas.

Whenever a determination is made, pursuant to section 1111 of this title, of the amount of sugar needed to meet the requirements of consumers, the Secretary shall establish quotas, or revise existing quotas—

(a) Domestic sugar-producing areas.

(1) For domestic sugar-producing areas, by apportioning among such areas 6,910,000 short tons, raw value, as follows:

Area	Short tons, raw value
Domestic beet sugar	3,406,000
Mainland cane sugar	1,539,000
Hawaii	1,110,000
Puerto Rico	855,000
Total	6,910,000

(2) To or from the sum of 4,945,000 short tons, raw value, of the quotas for the domestic beet sugar and mainland cane sugar areas there shall be added or deducted, as the case may be, an amount equal to 65 per centum of the amount by which the Secretary's determination of requirements of consumers in the continental United States pursuant to section 1111 of this title for the calendar year is greater than or less than 11,200,000 short tons, raw value. Such amount shall be apportioned between the domestic beet sugar area and the mainland cane sugar area on the basis of the quotas for such areas established under paragraph (1) of this subsection in effect immediately prior to the date of enactment of the Sugar Act Amendments of 1971.

(3) Notwithstanding the foregoing provisions of this subsection, whenever the production of sugar

in Hawaii or Puerto Rico in any year results in there being available for marketing in the continental United States in any year sugar in excess of the quota for such area for such year established under paragraph (1) of this subsection, the quota for the immediately following year established for such area under such paragraph shall be increased to the extent of such excess production, except that in no event shall the quota for Hawaii or Puerto Rico, as so increased, exceed the quota which would have been established for such area at the same level needed to meet the requirements of consumers under the provisions of this subsection in effect immediately prior to the date of enactment of the Sugar Act Amendments of 1962. Whenever sugar produced in Hawaii or Puerto Rico in any year is prevented from being marketed or brought into the continental United States in that year for reasons beyond the control of the producer or shipper of such sugar, the quota for the immediately following year established for such area under paragraph (1) of this subsection and the preceding sentence shall, within the limitations of the preceding sentence and section 1117 of this title, be increased by an amount equal to (A) the amount of sugar so prevented from being marketed or brought into the continental United States, reduced by (B) the amount of such sugar which has been sold to any other nation instead of being held for marketing in the continental United States.

(4) Beginning with 1973 or as soon thereafter as the quota or quotas can be used, there shall be established for any new continental cane sugar producing area or areas a quota or quotas of not to exceed a total for all such areas of 100,000 short tons, raw value, subject to the requirements of section 1132 of this title.

(b) Republic of the Philippines.

For the Republic of the Philippines, in the amount of 1,126,020 short tons, raw value.

(c) Foreign countries.

(1) For foreign countries other than the Republic of the Philippines, an amount of sugar, raw value, equal to the amount determined pursuant to section 1111 of this title less the sum of the quotas established pursuant to subsections (a) and (b) of this section.

(2) Repealed. Pub. L. 92-138, § 4(c)(1), Oct. 14, 1971, 85 Stat. 381.

(3) For individual foreign countries other than the Republic of the Philippines and Ireland, by prorating the amount of sugar determined under paragraph (1) of this subsection, less the amounts required to establish a quota as provided in paragraph (4) of this subsection for Ireland, among foreign countries on the following basis:

(A) For countries in the Western Hemisphere:

Country	Per centum
Cuba	23.74
Dominican Republic	12.80
Mexico	11.32
Brazil	11.04
Peru	7.90
West Indies	4.12
Ecuador	1.63
Argentina	1.53
Costa Rica	1.38
Colombia	1.36
Panama	1.29
Nicaragua	1.29
Venezuela	1.23
Guatemala	1.18
El Salvador	.86
British Honduras	.68
Haiti	.62
Bahamas	.54
Honduras	.24
Bolivia	.13
Paraguay	.13

(B) For countries outside the Western Hemisphere:

Country	Per centum
Australia	5.02
Republic of China	2.09
India	2.01
South Africa	1.42
Fiji	1.10
Mauritius	.74
Swaziland	.74
Thailand	.46
Southern Rhodesia	.37
Malawi	.37
Uganda	.37
Malagasy Republic	.30

(C) Notwithstanding the provisions of subparagraphs (A) and (B), for the calendar year 1972 the proration for Panama shall be 0.85 per centum and for Malawi shall be zero per centum and the proration for the other countries named in subparagraphs (A) and (B) shall be increased proportionately.

(4) For Ireland, in the amount of 5,351 short tons, raw value, of sugar. The quota provided by this paragraph shall apply for any calendar year only if the Secretary obtains such assurances from such country as he may deem appropriate prior to September 15 preceding such calendar year (October 31, 1971, for the calendar year 1972) that the quota for such year will be filled with sugar produced in such country.

(d) Suspension of diplomatic relations; additional imports; reduction of quotas; proration; assurances of filling quotas.

Notwithstanding any other provision of this chapter—

(1)(A) During the current period of suspension of diplomatic relations between the United States and Cuba, the quota provided for Cuba under subsection (c) of this section shall be withheld and a quantity of sugar equal to such quota shall be prorated as follows:

* * * * *

(ii) any quantity of quota withheld from Cuba at a determination in excess of the amount of ten million short tons, raw value, under section 1111 of this title, shall be prorated to other foreign countries named in paragraph (3)(A) of subsection (c) of this section on the basis of the percentages stated therein.

(B) Whenever and to the extent that the President finds that the establishment or continuation of a quota or any part thereof for any foreign country would be contrary to the national interest of the United States, such quota or part thereof shall be withheld or suspended, and such importation shall not be permitted. A quantity of sugar

equal to the amount of any quota so withheld or suspended shall be prorated to the other countries listed in subsection (c)(3)(A) of this section (other than any country whose quota is withheld or suspended) on the basis of the percentages stated therein.

* * * * *

(3) No quota shall be established for any country, other than Ireland, for the year following a period of twenty-four months, ending June 30 prior to the establishment of quotas for such year, in which its aggregate imports of sugar equaled or exceeded its aggregate exports of sugar from such country to countries other than the United States.

(4) Whenever in any calendar year any foreign country fails, subject to such reasonable tolerance as the Secretary may determine, to fill the quota as established for it pursuant to this chapter, the quota for such country for subsequent calendar years shall be reduced by the smaller of (i) the amount by which such country failed to fill such quota or (ii) the amount by which its exports of sugar to the United States in the year such quota was not filled was less than 115 per centum of such quota for the preceding calendar year: *Provided,* That (i) no such reduction shall be made if the country has notified the Secretary before June 1 of such year (or, with respect to events occurring thereafter, as soon as practicable after such event), of the likelihood of such failure and the Secretary finds that such failure was due to crop disaster or other force majeure, unless such country exported sugar in such year to a country other than the United States, in which case the reduction in quota for the subsequent years shall be limited to the amount of such exports, as determined by the Secretary, and (ii) in no event shall the quota for the Republic of the Philippines be reduced to an amount less than nine hundred and eighty thousand short tons, raw value, of sugar.

* * * * *

(6) If any foreign country fails to give assurance to the Secretary, on or before December 31, 1971, that such country will fill the quota as established for it under subsection (c)(3) of this section and paragraph (1) of this subsection for years after 1971, the quota for such country for such years shall be reduced to the amount which the country gives assurance that it will fill for such years. The portion of the quota for such country for which such assurance is not given shall be withdrawn for such years and a quantity of sugar equal to such portion shall be prorated to other foreign countries in the same manner as deficits are prorated under section 1114 of this title. For purposes of applying paragraph (4) of this subsection, any reduction in the quota of a foreign country under this paragraph shall be disregarded.

(e) Reestablishment of suspended quotas.

Whenever the President finds that it is no longer contrary to the national interest of the United States to reestablish a quota or part thereof withheld or suspended under subsection (d)(1) of this section or under section 1158(c) of this title, and, in the case of Cuba, diplomatic relations have been resumed by the United States, such quota shall be restored in the manner the President finds appropriate: *Provided,* That the entire amount of such quota shall be restored for the third full calendar year following such finding by the President. The temporary quotas established pursuant to subsection (d)(1) of this section shall, notwithstanding any other provision of this section, be reduced pro rata to the extent necessary to restore the quota in accordance with the provisions of this subsection.

(f) Charge to quotas upon reestablishment of diplomatic relations or reduced consumer requirements.

Whenever any quota is required to be reduced pursuant to subsection (e) of this section or because of a reduction in the requirements of consumers under section 1111 of this title, and the amount of sugar imported from any country or marketed from any area at the time of such reduction exceeds the reduced quota, the amount of such excess shall, notwithstanding any other provision of this section, be charged to the quota established for such country or domestic area for the next succeeding calendar year. Sugar from any country which at the time of reduction in quota has not been imported but is covered by authorizations for importation issued by the Secretary not more than five days prior to the scheduled date of departure shown on the authorization shall be permitted to be entered and charged to the quota established for such country for the next succeeding calendar year.

(g) Authority to limit quarterly quotas; adjustment of consumer requirements.

(1) The Secretary is authorized to limit, on a quarterly basis only, the importation of sugar within the quota for any foreign country during the first quarter of 1972 if he determines that such limitation is necessary to achieve the objectives of the chapter.

(2) The Secretary is not authorized during the last three quarters of 1972 and the full year 1973, or in any year thereafter except as provided herein, to limit the importation of sugar within the quota for any foreign country through the use of limitations applied on other than a calendar year basis.

(3) In order to attain on an annual average basis the price objective determined pursuant to the formula specified in section 1111 of this title, the Secretary shall make adjustments in the determination of requirements of consumers in accordance with the following provisions: (A) the determination of requirements of consumers shall not be adjusted whenever the simple average of the prices of raw sugar for seven consecutive market days is less than 4 per centum (or, in the case of any seven consecutive market day period ending after October 31 of any year and before March 1 of the following year, 3 per centum) above or below the average price objective so determined for the preceding two calendar months; (B) the determination of requirements of consumers shall be adjusted to the extent necessary to attain such price objective whenever the simple average of prices of raw sugar for seven consecutive market days is 4 per centum or more (or, in the case of any seven consecutive market day period ending after October 31 of any year and before March 1 of

the following year, 3 per centum or more) above or below the average price objective so determined for the preceding two calendar months; and (C) the determination of requirements of consumers for the current year shall not be reduced after November 30 of such year, but any required reduction shall instead be made in such determination for the following year. If in the twelve-month period ending October 31 of any year after 1972 the average price of raw sugar is less than 99 per centum of the price objective determined pursuant to the formula set forth in section 1111 of this title (except in the twelve-month period ending October 31, 1973—97 per centum) then, with respect to each subsequent calendar year, the Secretary is authorized after November 30 of the preceding year to limit, on a quarterly basis only, the importation of sugar within the quota of any foreign country during the first or second quarter, or both, of such subsequent year if he determines that such limitation is necessary to achieve the objectives of the chapter.

(4) The Secretary is not authorized to issue any regulation under this chapter restricting the importation, shipment, or storage of sugar to one or more particular geographical areas.

(5) The imposition of limitations on a quarterly basis under this subsection shall not operate to reduce the quantity of sugar permitted to be imported for any calendar year from any country below its quota for that year.

* * * * *

(As amended Oct. 14, 1971, Pub. L. 92–138, § 4, 85 Stat. 380.)

REFERENCES IN TEXT

Date of enactment of the Sugar Act Amendments of 1971 and 1962, referred to in subsec. (a) (2) and (3), refers to enactment of Pub. L. 92–138 and Pub. L. 87–535 on Oct. 14, 1971, and July 13, 1962, respectively.

AMENDMENTS

1971—Subsec. (a) (1). Pub. L. 92–138, § 4(a), increased quota for domestic sugar-producing areas to 6,910,000 from 6,390,000 short tons, raw value, increasing domestic beet sugar quota to 3,406,000 from 3,025,000 short tons, raw value, increasing mainland cane sugar quota to 1,539,000 from 1,100,000 short tons, raw value, decreasing Puerto Rican quota to 855,000 from 1,140,000 short tons, raw value, and deleting Virgin Islands quota of 15,000 short tons, raw value.

Subsec. (a) (2). Pub. L. 92–138, § 4(a), redesignated former subpar. (A) as the second paragraph, substituted "To or from the sum of 4,945,000 short tons, raw value, of the quotas for the domestic beet sugar and mainland cane sugar areas" for "To or from the above total of six million three hundred and ninety thousand short tons, raw value,", "is greater than or less than 11,200,000 short tons, raw value" for "exceeds ten million four hundred thousand short tons, raw value, or is less than nine million seven hundred thousand short tons, raw value", and "in effect immediately prior to the date of enactment of the Sugar Act Amendments of 1971" for "and the amounts so apportioned shall be added to, or deducted from the quotas for such areas" following "paragraph (1) of this subsection" and deleted subpar. (B) provisions respecting increase of quota, whenever production of sugar in Hawaii, Puerto Rico, or in the Virgin Islands in any year subsequent to 1961, results in availability from such area for marketing in continental United States, for such area equal to such excess production, now incorporated in par. (3) of this subsection.

Subsec. (a) (3). Pub. L. 92–138, § 4(a), redesignated former subsec. (a) (2) (B) as par. (3), deleted "subsequent to 1961" following "in any year" and application to production of sugar in Virgin Islands and increase of quota for the Virgin Islands, substituted "provisions of this subsection in effect immediately prior to the date of enactment of the Sugar Act Amendments of 1962" for "provisions of section 202(a) of the Sugar Act of 1948, as amended, in effect immediately prior to the date of enactment of the Sugar Act Amendments of 1962", and provided for increase in quota for following year for Hawaii or Puerto Rico whenever sugar produced therein is prevented from being marketed or brought into the continental United States in that year for reasons beyond control of producer or shipper of such sugar.

Subsec. (a) (4). Pub. L. 92–138, § 4(a), added par. (4).

Subsec. (b). Pub. L. 92–138, § 4(b), substituted quota of 1,126,020 tons, raw value for Republic of the Philippines for prior quota of 1,050,000 tons plus 10.86 per centum of not more than 700,000 short tons, raw value by which Secretary's determination of requirements of consumers in the continental United States pursuant to section 1111 of this title for calendar year exceed 9,700,000 short tons, raw value.

Subsec. (c) (2). Pub. L. 92–138, § 4(c) (1), struck out par. (2) provision for quotas for calendar year 1965, for foreign countries other than the Republic of the Philippines, by prorating the amount of sugar determined under par. (1) of this subsec. among foreign countries on basis of quotas established in sugar regulation 811, as amended, issued Feb. 15, 1965 (30 F.R. 2206).

Subsec. (c) (3). Pub. L. 92–138, § 4(c) (2), deleted limitation of provisions to calendar years 1966 through 1971, and reference to quota for Bahama Islands under former provisions of par. (4) of this section, now covered in subpar. (A); revised percentages for Western Hemisphere countries in subpar. (A), adding percentage for Bahamas and Paraguay and substituting West Indies percentage for prior separate percentages for British and French West Indies; revised percentages for other than Western Hemisphere countries in subpar. (B), adding percentages for Malawi and Uganda; and added subpar. (C).

Subsec. (c) (4). Pub. L. 92–138, § 4(c) (3), eliminated text prescribing quota for Ireland for calendar year 1966, and each subsequent calendar year, deleted provision for quota of ten thousand short tons, raw value, of sugar for Bahama Islands for calendar year 1968, and each subsequent calendar year, now covered in subsec. (c) (3) (A) of this section, and changed the date for assurance of Secretary of fulfilling the quota from a date prior to January 1 of the calendar year to a date prior to September 15 preceding the calendar year (October 31, 1971, for calendar year 1972).

Subsec. (d). Pub. L. 92–138, § 4(d), struck out "that are members of the Organization of American States" following "foreign countries named in paragraph (3) (A) of subsection (c) of this section" in par. (1) (A) (ii); substituted "percentages stated therein" for "quotas then in effect for such countries" in par. (1) (B); struck out "the Bahama Islands, Bolivia, Honduras, and" preceding "Ireland" in par. (3); substituted "June" for "August" in par. (4); and substituted "1971" for "1965" twice in par. (6), respectively.

Subsec. (e). Pub. L. 92–138, § 4(e), inserted "or under section 1158(c) of this title" after "subsection (d) (1) of this section".

Subsec. (f). Pub. L. 92–138, § 4(f), substituted "charged to the quota" for "deducted from the quota" and, with respect to sugar from any country which at the time of reduction has not been imported but is covered by authorizations for importation issued by the Secretary not more than five days prior to the scheduled date of departure shown on the authorization, provided that such sugar shall be permitted to be entered and charged to the quota established for such country for the next succeeding calendar year.

Subsec. (g). Pub. L. 92–138, § 4(g), in revising subsec. (g), incorporated existing provisions in pars. (1) and (5), substituting in par. (1) provision respecting quota limitation during first quarter of 1972 for such limitation during first and second quarters of any calendar and deleting in par. (5) inclusion of deficits allocated to foreign country from its quota, and added pars. (2)–(4), incorporating in par. (3) provision respecting quota limitation during first or second quarter where necessary to achieve objectives of the chapter.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–138 effective Oct. 14, 1971, for purposes of actions relating to 1972 and subsequent years, see section 19 of Pub. L. 92–138, set out as a note under section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1114, 1117, 1132, 1158 of this title.

§ 1113. Estimates for consumption in Hawaii and Puerto Rico; quotas.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1114 of this title.

§ 1114. Revision of proration upon productive deficiency of quota area.

(a) The Secretary shall, at the time he makes his determination of requirements of consumers for each calendar year and on December 15 preceding each calendar year, and as often thereafter as the facts are ascertainable by him but in any event not less frequently than each sixty days after the beginning of each calendar year, determine whether, in view of the current inventories of sugar, the estimated production from the acreage of sugarcane or sugar beets planted, the normal marketings within a calendar year of new-crop sugar, and other pertinent factors, any area or country will not market the quota for such area or country. Whenever the Secretary determines that any domestic area or foreign country listed in section 1112(c)(3)(A) of this title will not market its quota, he shall revise the quota for the Republic of the Philippines by allocating to it an amount of sugar equal to 30.08 per centum of the deficit, and shall allocate an amount of sugar equal to the remainder of the deficit to the countries listed in section 1112(c)(3)(A) of this title on the basis of the quotas determined pursuant to section 1112 of this title for such countries: *Provided*, That any deficit resulting from the inability of a country which is a member of the Central American Common Market to fill its quota or its share of any deficit determined under the foregoing provisions of this subsection shall first be allocated to the other member countries on the basis of the quotas determined pursuant to section 1112 of this title for such countries: *And provided further*, That if any quota is restored to Cuba, the maximum per centum of 30.08 of the deficit to be allocated to the Republic of the Philippines shall be reduced to a per centum equal to that which the Philippine quota under subsection (b) of section 1112 of this title bears to the sum of such Philippine quota and the quotas determined pursuant to section 1112 of this title for all foreign countries pursuant to subsection (c) of section 1112 of this title. If the Secretary determines the Republic of the Philippines will not fill its share of any deficit determined under the foregoing provisions of this subsection, he shall allocate such unfilled amount to the countries listed in section 1112(c)(3)(A) of this title on the basis of the quotas determined pursuant to section 1112 of this title for such countries. If the Secretary determines that neither the Republic of the Philippines nor the countries listed in section 1112(c)(3)(A) of this title can fill all of any such deficit, he shall apportion such unfilled amount on such basis and to such foreign countries as he determines is required to fill such deficit. If the Secretary determines that any foreign country with a quota established pursuant to section 1112(c)(3)(B) of this title or section 1112(c)(4) of this title will not market the quota for such area or country, he shall revise the quota for the Republic of the Philippines by allocating to it an amount of sugar equal to 30.08 per centum of the deficit, and shall allocate an amount of sugar equal to the remainder of the deficit to the countries listed in section 1112(c)(3)(B) of this title on the basis of the quotas determined pursuant to section 1112 of this title for such countries: *Provided*, That if any quota is restored to Cuba, the maximum per centum of 30.08 of the deficit to be allocated to the Republic of the Philippines shall be reduced to a per centum equal to that which the Philippine quota under subsection (b) of section 1112 of this title bears to the sum of such Philippine quota and the quotas determined pursuant to section 1112 of this title for all foreign countries pursuant to subsection (c) of section 1112 of this title. If the Secretary determines the Republic of the Philippines will not fill its share of any deficit determined for any country listed in section 1112(c)(3)(B) of this title, he shall allocate such unfilled amount to the countries so listed on the basis of the quotas determined pursuant to section 1112 of this title for such countries. If the Secretary determines that neither the Republic of the Philippines nor the countries listed in section 1112(c)(3)(B) of this title can fill all of any such deficit, he shall apportion such unfilled amount on such basis and to such foreign countries as he determines is required to fill such deficit. If the Secretary determines that the Republic of the Phillipines will not market its quota, he shall allocate an amount of sugar equal to the deficit to the countries listed in section 1112(c)(3) of this title on the basis of the quotas determined pursuant to section 1112 of this title for such countries. Deficits shall not be allocated to any country whose quota has been suspended or withheld pursuant to subsection (d)(1) of section 1112 of this title. In determining and allocating deficits the Secretary shall act to provide at all times throughout the calendar year the full distribution of the amount of sugar which he has determined to be needed under section 1111 of this title to meet the requirements of consumers. In making allocations for foreign countries within the Western Hemisphere under this subsection, special consideration shall be given to those countries purchasing United States agricultural commodities. Notwithstanding the foregoing provisions of this subsection, if the President determines that such action would be in the national interest, any part of a deficit which would otherwise be allocated to countries listed in section 1112(c) of this title may be allocated to one or more of such countries with a quota in effect on such basis as the President finds appropriate.

* * * * *

(c) Notwithstanding the foregoing provisions of this section and section 1121(c) of this title, if the Secretary determines that Hawaii or Puerto Rico will be unable to fill its quota established under section 1113 of this title for marketing for local consumption on a day-to-day basis, he shall allocate

a total amount of sugar not in excess of such deficit to the domestic beet sugar area or the mainland cane sugar area, or both, to be filled by direct consumption or raw sugar, as he determines to be required for local consumption. (As amended Oct. 14, 1971, Pub. L. 92–138, § 5, 85 Stat. 383.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–138, § 5(a), respectively, substituted in first sentence "shall, at the time he makes his determination of requirements of consumers for each calendar year and on December 15 preceding each calendar year, and as often thereafter as the facts are ascertainable by him but in any event not less frequently than each sixty days after the beginning of each calendar year, determine", for "shall from time to time determine", "sugar beets" for "sugarbeets" and "will not market" for "will be unable to market"; substituted in second sentence "Whenever" for "If" and "will not market" for "will be unable to market"; substituted in second sentence, first proviso, "to fill its quota or its share of any deficit determined under the foregoing provisions of this subsection" for "to fill its quota" and "quotas determined pursuant to section 1112 of this title" for "quotas then in effect"; substituted "will not" for "will be unable to" in third, fifth, sixth, and eighth sentences; substituted "In determining and allocating deficits the Secretary shall act to provide at all times throughout the calendar year the full distribution of the amount of sugar which he has determined to be needed under section 1111 of this title to meet the requirements of consumers" for former tenth and eleventh sentences reading "The Secretary shall insofar as practicable determine and allocate deficits so as to assure the availability of the sugar for importation during the calendar year. In any event, any deficit, so far as then known, shall be determined and allocated by August 1 of the calendar year,"; substituted "quotas determined pursuant to section 1112 of this title" for "quotas then in effect" in second sentence, text preceding first proviso and in second proviso, in third sentence, in fifth sentence, text preceding proviso and in proviso, and in sixth sentence; and substituted per centum of "30.08" for "47.22" in second sentence, text preceding first proviso and in second proviso, and in fifth sentence, text preceding proviso and in proviso.

Subsec. (c). Pub. L. 92–138, § 5(b), added subsec. (c).

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–138 effective Oct. 14, 1971, for purposes of actions relating to 1972 and subsequent years, see section 19 of Pub. L. 92–138, set out as a note under section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1112, 1117, 1158 of this title.

§ 1115. Allotments of quotas or prorations.

(a) Authorization; method; modification.

Whenever the Secretary finds that the allotment of any quota, or proration thereof, established for any area pursuant to the provisions of this chapter, is necessary to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate or foreign commerce, or to prevent disorderly marketing or importation of sugar or liquid sugar, or to maintain a continuous and stable supply of sugar or liquid sugar, or to afford all interested persons an equitable opportunity to market sugar or liquid sugar within any area's quota, after such hearing and upon such notice as he may by regulations prescribe, he shall make allotments of such quota or proration thereof by allotting to persons who market or import sugar or liquid sugar, for such periods as he may designate, the quantities of sugar or liquid sugar which each such person may market in continental United States, Hawaii, or Puerto Rico, or may import or bring into continental United States, for consumption therein. Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processings of sugar or liquid sugar from sugar beets or sugarcane, limited in any year when proportionate shares were in effect to processings to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 1132 of this title, pertained; the past marketings or importations of each such person; and the ability of such person to market or import that portion of such quota or proration thereof allotted to him. The Secretary is authorized in making such allotments, whenever there is involved any allotment that pertains to a new or substantially enlarged existing sugar beet processing facility serving a locality or localities which have received an acreage allotment under section 1132(b)(3) of this title or that pertains to a sugar beet processing facility described in section 1132(b)(9) of this title, to take into consideration in lieu of or in addition to the foregoing factors of processing, past marketings and ability to market, the need for establishing an allotment which will permit such marketing of sugar as is necessary for reasonably efficient operation of any such sugar beet processing facility during each of the first three years of its operation. The Secretary is also authorized in making such allotments of a quota for any calendar year to take into consideration, in lieu of or in addition to the foregoing factors of processing, past marketings, and ability to market, the need for establishing an allotment which will permit such marketing of sugar as is necessary for the reasonably efficient operation of any nonaffiliated single plant processor of sugarbeets or any processor of sugarcane and as may be necessary to avoid unreasonable carryover of sugar in relation to other processors in the area: *Provided*, That the marketing allotment of any such processor of sugarbeets shall not be increased under this provision above an allotment of twenty-five thousand short tons, raw value, and the marketing allotment of a processor of sugarcane shall not be increased under this provision above an allotment equal to the effective inventory of sugar of such processor on January 1 of the calendar year for which such allotment is made, except that the marketing allotment for 1965 of any processor of sugarcane, other than a processor-refiner, may, in the discretion of the Secretary, be increased by an additional six thousand two hundred short tons of sugar, raw value: *Provided further*, That the total increases in marketing allotments made pursuant to this sentence to processors in the domestic beet sugar area shall be limited to twenty-five thousand short tons of sugar, raw value, for each calendar year and to processors in the mainland cane sugar area shall be limited to sixteen thousand short tons of sugar, raw value, for each calendar year. In making such allotments, the Secretary may also take into consideration and make due allowance for the adverse effect of drought, storm, flood, freeze, disease, insects, or other similar abnormal and uncontrollable conditions seriously and broadly affecting any general area served by the factory or factories of such person. The Secretary

may also, upon such hearing and notice as he may by regulations prescribe, revise or amend any such allotment upon the same basis as the initial allotment was made. If allotments are in effect at the time of a reduction in a domestic area quota for any year, the amount marketed by a person in excess of the amount of his allotment as reduced in conformity with the reduction in the quota shall not be taken into consideration in establishing an allotment in the next succeeding year for such person, and any allotment established for such person for the next succeeding year shall be reduced by such excess amount.

* * * * *

(As amended Oct. 14, 1971, Pub. L. 92–138, § 6, 85 Stat. 384.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–138 substituted in third sentence "a new or substantially enlarged existing sugar beet processing facility serving a locality or localities which have received an acreage allotment under section 1132(b)(3) of this title or that pertains to a sugar beet processing facility described in section 1132(b)(9) of this title", for "a new sugarbeet processing plant or factory serving a locality having a substantial sugarbeet acreage for the first time or that pertains to an existing sugarbeet processing plant or factory with substantially expanded facilities added to serve farms having a substantial sugarbeet acreage for the first time" and "such sugar beet processing facility during each of the first three years of its operation", for "such new processing plant or factory or expanded facilities during each of the first two years of its operation".

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–138 effective on Jan. 1, 1972, see section 19 of Pub. L. 92–138, set out as a note under section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1154 of this title.

§ 1116. Sugar-containing products or mixtures and beet sugar molasses.

(a) Authority of Secretary to reduce importation; determination that importation substantially interferes with objects of chapter.

If the Secretary determines that the prospective importation or bringing into the continental United States, Hawaii, or Puerto Rico of any sugar-containing product or mixture or beet sugar molasses will substantially interfere with the attainment of the objectives of this chapter, he may limit the quantity of such product, mixture, or beet sugar molasses to be imported or brought in from any country or area to a quantity which he determines will not so interfere: *Provided,* That the quantity to be imported or brought in from any country or area in any calendar year shall not be reduced below the average of the quantities of such product, mixture, or beet sugar molasses annually imported or brought in during such three-year period as he may select for which reliable data of the importation or bringing in of such product, mixture, or beet sugar molasses are available.

(b) Reduction of importation in absence of reliable data.

In the event the Secretary determines that the prospective importation or bringing into the continental United States, Hawaii, or Puerto Rico, of any sugar-containing product or mixture or beet sugar molasses will substantially interfere with the attainment of the objectives of this chapter and there are no reliable data available of such importation or bringing in of such product, mixture, or beet sugar molasses for three consecutive years, he may limit the quantity of such product, mixture, or beet sugar molasses to be imported or brought in annually from any country or area to a quantity which the Secretary determines will not substantially interfere with the attainment of the objectives of the chapter. In the case of a sugar-containing product or mixture, such quantity from any one country or area shall not be less than a quantity containing one hundred short tons, raw value, of sugar or liquid sugar.

* * * * *

(d) Confectionery quota; allocation basis; acceptance of statistical data.

Notwithstanding the foregoing provisions of this section, the Secretary shall each year, beginning with the calendar year 1972, limit the quantity of sweetened chocolate, candy, and confectionery provided for in items 156.30 and 157.10 of part 10, schedule 1, of the Tariff Schedules of the United States which may be entered, or withdrawn from warehouse, for consumption in the United States as hereinafter provided. The quantity which may be so entered or withdrawn during any calendar year shall be determined in the fourth quarter of the preceding calendar year and the total amount thereof shall be equivalent to the larger of (1) the average annual quantity of the products entered, or withdrawn from warehouse, for consumption under the foregoing items of the Tariff Schedules of the United States for the three calendar years immediately preceding the year in which such quantity is determined, or (2) a quantity equal to 5 per centum of the amount of sweetened chocolate and confectionery of the same description of United States manufacture sold in the United States during the most recent calendar year for which data are available. The total quantity to be imported under this subsection may be allocated to countries on such basis as the Secretary determines to be fair and reasonable, taking into consideration the past importations or entries from such countries. For purposes of this subsection the Secretary shall accept statistical data of the United States Department of Commerce as to the quantity of sweetened chocolate and confectionery of United States manufacture sold in the United States. (As amended Oct. 14, 1971, Pub. L. 92–138, § 7, 85 Stat. 384.)

AMENDMENTS

1971—Subsec. (a). Pub L. 92–133 § 7(1), made provision applicable to importation of beet sugar molasses and substituted "during such three-year period as he may select" for "during the most recent three consecutive years".

Subsec. (b). Pub. L. 92–138, § 7(1), made provision applicable to importation of beet sugar molasses, authorized limitation of quantity of the mixture or beet sugar molasses imported annually, and incorporated in the second sentence former end proviso inserting introductory phrase "In the case of a sugar-containing product or mixture".

Subsec. (d). Pub. L. 92–138, § 7(2), added subsec. (d).

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment of subsecs. (a) and (b) and enactment of subsec. (d) by section 7 (1) and (2), respectively, of Pub. L. 92–138 effective on Jan. 1, 1972, and Oct. 14, 1971,

for purposes of actions relating to 1972 and subsequent years, respectively, see section 19 of Pub. L. 92–138, set out as a note under section 1101 of this title.

§ 1117. Amount of quota to be filled by direct-consumption sugar.

(a) Hawaii.

The quota for Hawaii established under section 1112 of this title for any calendar year may be filled by direct-consumption sugar not to exceed an amount equal to 0.342 per centum of the Secretary's determination for the preceding year issued pursuant to section 1111 of this title.

(b) Puerto Rico.

The quota for Puerto Rico established under section 1112 of this title for any calendar year may be filled by direct-consumption sugar not to exceed an amount equal to 1.5 per centum of the first eleven million short tons, raw value, of the Secretary's determination for the preceding year issued pursuant to section 1111 of this title, plus 0.5 per centum of any amount of such determination above eleven million short tons, raw value, except that 126,033 short tons, raw value, of such direct-consumption sugar shall be principally of crystalline structure.

(c) Repealed. Pub. L. 92–138, § 8(3), Oct. 1, 1971, 85 Stat. 386.

* * * * *

(As amended Oct. 14, 1971, Pub. L. 92–138, § 8, 85 Stat. 385.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–138, § 8(1), substituted "the preceding year" for "such year".

Subsec. (b). Pub. L. 92–138, § 8(2), substituted as quota for Puerto Rico an amount equal to 1.5 per centum of the first eleven million short tons, raw value, of the Secretary's determination for the preceding year pursuant to section 1101 of this title plus 0.5 per centum of any amount of such determination above eleven million short tons, raw value for former quota not to exceed an amount equal to 1.5 per centum of the Secretary's determination for such year under section 1111 of this title.

Subsec. (c). Pub. L. 92–138, § 8(3), struck out subsec. (c) which contained restriction against filing by direct-consumption sugar any of the quota for the Virgin Islands for any calendar year.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–138 effective on Jan. 1, 1972, see section 19 of Pub. L. 92–138, set out as a note under section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1112, 1155, 1158 of this title.

§ 1119. Prohibited acts.

All persons are prohibited—

(a) Importation in excess of foreign quotas.

From bringing or importing into the continental United States from any foreign country or any other area outside the continental United States (1) any sugar or liquid sugar after the applicable quota, or the proration of any such quota, has been filled, or (2) any direct-consumption sugar after the direct-consumption portion of any such quota or proration has been filled;

* * * * *

(As amended Oct. 14, 1971, Pub. L. 92–138, § 9, 85 Stat. 386.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–138 substituted "any foreign country or any other area outside the continental United States" for "Hawaii, Puerto Rico, the Virgin Islands, or foreign countries,".

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–138 effective on Jan. 1, 1972, see section 19 of Pub. L. 92–138, set out as a note under section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1155 of this title.

§ 1121. Credit against quota.

(a) Credit upon exportation of imported sugar.

Sugar or liquid sugar entered into the United States, including Puerto Rico, under an applicable bond established pursuant to orders or regulations issued by the Secretary, for the express purpose of subsequently exporting the equivalent quantity of sugar or liquid sugar as such, or in manufactured articles, shall not be charged against the applicable quota or proration for the country of origin.

* * * * *

(As amended Oct. 14, 1971, Pub. L. 92–138, § 10, 85 Stat. 386.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–138 substituted "United States, including Puerto Rico," for "continental United States".

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–138 effective on Jan. 1, 1972, see section 19 of Pub. L. 92–138, set out as a note under section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1114 of this title.

§ 1122. Exceptions to quota provisions.

The provisions of this subchapter shall not apply to (1) the first ten short tons, raw value, of direct-consumption sugar or liquid sugar imported from any foreign country, other than Cuba and the Republic of the Philippines, in any calendar year; (2) the first ten short tons, raw value, of direct-consumption sugar or liquid sugar imported from any foreign country, other than Cuba and the Republic of the Philippines, in any calendar year for religious, sacramental, educational, or experimental purposes; (3) liquid sugar imported from any foreign country, other than Cuba and the Republic of the Philippines, in individual sealed containers of such capacity as the Secretary may determine, not in excess of one and one-tenth gallons each; or (4) any sugar or liquid sugar imported, brought into, or produced or manufactured in the United States for the distillation of alcohol, including all polyhydric alcohols, or for livestock feed, or for the production of livestock feed, or for the production (other than by distillation) of alcohol, including all polyhydric alcohols, but not including any such alcohol or resulting by-products for human food consumption. (As amended Oct. 14, 1971, Pub. L. 92–138, § 11, 85 Stat. 386.)

AMENDMENTS

1971—Pub. L. 92–138 substituted "direct consumption sugar" for "sugar" in cls. (1) and (2).

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–138 effective on Jan. 1, 1972 see section 19 of Pub. L. 92–138, set out as a note under section 1101 of this title.

SUBCHAPTER III.—CONDITIONAL-PAYMENT PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 26 section 4501.

§ 1132. Quantity of sugar; time for payments.

* * * * *

(b) Determination of proportionate share of farm; sugar beet production history, disposition; new sugar beet areas, acreage allocation, publication in Federal Register; transfer of sugarcane production record for land in Puerto Rico.

(1) The Secretary shall determine for each crop year whether the production of sugar from any crop of sugar beets or sugarcane will, in the absence of proportionate shares, be greater than the quantity needed to enable the area to meet its quota and provide a normal carryover inventory, as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar from such crop normally would be marketed. Such determination shall be made only with respect to the succeeding crop year and, beginning with the 1966 crop year, only after due notice and opportunity for an informal public hearing. If the Secretary determines that the production of sugar from any crop of sugar beets or sugarcane will be in excess of the quantity needed to enable the area to meet its quota and provide a normal carryover inventory, he shall establish proportionate shares for farms in such areas as provided in this subsection, except that the determinations by the Secretary of proportionate shares for farms in Hawaii and the Virgin Islands in effect on January 1, 1965, shall continue in effect until amended or superseded. In determining the proportionate shares with respect to a farm, the Secretary may take into consideration the past production on the farm of sugar beets and sugarcane marketed (or processed) for the extraction of sugar or liquid sugar (within proportionate shares when in effect) and the ability to produce such sugar beets and sugarcane. In establishing proportionate shares for farms in the mainland cane sugar area, the Secretary may establish separate State acreage allocations, may determine and administer the proportionate shares for farms in one State by a method different from that used in another State, may include in such State allocation an acreage reserve to compensate for anticipated unused proportionate shares, may make conditional allocations to farms from such reserve and establish conditions which must be met in order for such allocations to be final, may make an adjustment in a State's allocation in any year to compensate for a deficit or surplus in a prior year if the actual amount of unused proportionate shares in such State for such prior year was larger or smaller than such anticipated amount of unused proportionate shares, and, in establishing State allocations and farm proportionate shares, may use whatever prior crop year or years he considers equitable in his consideration of past production.

(2) The Secretary may also, in lieu of or in addition to the foregoing factors, take into consideration with respect to the domestic beet sugar area the sugar beet production history of the person who was a farm operator in the base period, in establishing farm proportionate shares in any State or substantial portion thereof in which the Secretary determines that sugar beet production is organized generally around persons rather than units of land, other than a State or substantial portion thereof wherein personal sugar beet production history of farm operators was not used generally prior to 1962 in establishing farm proportionate shares. In establishing proportionate shares for farms in the domestic beet sugar area, the Secretary may first allocate to States (except acreage reserved) the total acreage required to enable the area to meet its quota and provide a normal carryover inventory (hereinafter referred to as the "national sugar beet acreage requirement") on the basis of the acreage history of sugar beet production and the ability to produce sugar beets for extraction of sugar in each State. The personal sugar beet production history of a farm operator who dies, or becomes incapacitated, shall accrue to the legal representative of his estate or to a member of his immediate family if such legal representative or family member continues within three years of such death or incapacity the customary sugar beet operations of the deceased or incapacitated operator. If in any year during this period sugar beets were not planted by such legal representative or member of the family, production history shall be credited to such year equal to the acreage last planted by the deceased or incapacitated farm operator.

(3) In order to make acreage available for growth and expansion of the beet sugar industry, the Secretary, in addition to protecting the interests of new and small producers by regulations generally similar to those heretofore promulgated by him pursuant to this chapter, shall allocate as needed from the national sugar beet requirements established by him, during 1972, 1973, and 1974, the acreage required to yield not more than a total of 100,000 short tons, raw value, of sugar for localities to be served by new or substantially enlarged existing sugar beet processing facilities. Allocations shall be for a period of three years and limited for any one processing facility to the acreage required to yield a maximum of 50,000 short tons, raw value, of sugar and a minimum of 25,000 short tons, raw value, of sugar. The acreage so allocated shall be distributed on a fair and reasonable basis to new and old sugar beet farms to the extent that it can be utilized without regard to any other acreage allocations to States determined by the Secretary. At the time the Secretary allocates acreage for a new or substantially enlarged existing sugar beet processing facility for any year, which determination shall be made as far in advance of such year as practicable, such allocation shall thereby be committed to be in effect for the year in which production of sugar beets is scheduled to commence or to be substantially increased in the locality or localities determined by the Secretary to receive such acreage allocation for such year, such determination by the Secretary shall be final, and such commitment of acreage allocation shall be irrevocable upon issuance of such determination of the Secretary by publication in the Federal Register; except that if the Secretary finds in any case that the construction of new or the substantial enlargement of existing sugar

beet processing facilities and the contracting for processing of sugar beets has not proceeded in substantial accordance with the representations made to him as a basis for his determination of acreage allocation, he shall revoke such determination in accordance with and upon publication in the Federal Register of such findings. In determining acreage allocations for a locality or localities serving new or substantially enlarged existing sugar beet facilities and whenever proposals are made to construct new or to substantially enlarge existing sugar beet processing facilities in two or more localities (where sugar beet production is proposed to be commenced or to be substantially increased in the same year), the Secretary shall base his determination and selection upon the firmness of capital commitment, the proven suitability of the area for growing sugar beets and the relative qualifications of localities and proposals under such criteria. In making his determination under the preceding sentence, the Secretary shall give a preference to any processing facility located or to be located in or adjacent to growing areas where processing facilities were closed during 1970 or thereafter if he finds that sugar beets can and will be grown in sufficient quantity and quality to make the production of sugar beets and the operation of such facility successful. If proportionate shares are in effect in either of the two years immediately following the year for which such initial acreage allocation is made in any locality, the Secretary shall adjust the initial allocation in the same proportion as the State's acreage is adjusted from its acreage of the year in which such initial allocation was made.

(4) The allocation of the national sugar beet acreage requirement to States for sugar beet production, as well as the acreage allocation for new or substantially enlarged existing sugar beet processing facilities, shall be determined by the Secretary after investigation and notice and opportunity for an informal public hearing.

(5) Whether farm proportionate shares are or are not determined, the Secretary shall insofar as practicable, protect the interests of new producers and small producers and the interest of producers who are cash tenants, share tenants, adherent planters, or sharecroppers and of the producers whose past production has been adversely, seriously, and generally affected by drought, storm, flood, freeze, disease, insects, or other similar abnormal and uncontrollable conditions.

* * * * *

(9) The Secretary is authorized to reserve from the national sugar beet acreage requirements established by him for the 1972, 1973, and 1974 crops of sugar beets the acreage required to yield 25,000 short tons of sugar, raw value, for any sugar beet processing facility which closed during 1970, if he is satisfied that such facility will resume operations and will be operated successfuly and that the area which will serve such facility is suitable for growing sugar beets. The Secretary shall allocate the acreage provided for in this paragraph to farms on such basis as he determines necessary to accomplish the purposes for which such acreage is provided under this paragraph.

(10) The Secretary shall credit to the farm of any producer (or to the producer in a personal history State) who has lost a market for sugar beets as a result of (A) the closing of a sugar beet factory in any year after 1970; (B) the complete discontinuance of contracting by a processor after 1970 in a State; or (C) the discontinuance of contracting by a processor after 1970 in a substantial portion of a State in which the processor contracted a total of at least 2,000 acres of the 1970 crop of sugar beets, an acreage history (or production history) for each of the next three years equal to the average acreage planted on the farm (or by the producer) in the last three years of such factory's operation or processor's contracting, and any unused proportionate share shall not be transferred to other farms (or producers).

(c) New cane sugar areas; publication in Federal Register.

In order to enable any new cane sugar producing area to fill the quota to be established for such area under section 1112(a)(4) of this title, the Secretary shall allocate an acreage which he determines is necessary to enable the area to meet its quota and provide a normal carryover inventory. Such acreage shall be fairly and equitably distributed to farms on the basis of land, labor, and equipment available for the production of sugarcane, and the soil and other physical factors affecting the production of sugarcane. The acreage allocation for any year shall be made as far in advance of such year as practicable, and the commitment of such acreage to the area shall be irrevocable upon issuance of such determination by publication thereof in the Federal Register, except that, if the Secretary finds in any case that construction of sugarcane facilities and the contracting for processing of sugarcane has not proceeded in substantial accordance with the representation made to him as a basis for his determination of distribution of acreage, he shall revoke such determination in accordance with and upon publication in the Federal Register of such findings. In making his determination for the establishment of a quota and the allocation of the acreage required in connection with such quota, the Secretary shall base such determination upon the firmness of capital commitment and the suitability of the area for growing sugarcane and, where two or more areas are involved, the relative qualifications of such areas under such criteria. If proportionate shares are in effect in such area in the two years immediately following the year for which the sugarcane acreage allocation is committed for any area, the total acreage of proportionate shares established for farms in such area in each such two years, shall not be less than the larger of the acreage committed to such area or the acreage which the Secretary determines to be required to enable the area to fill its quota and provide for a normal carryover inventory. (As amended Oct. 14, 1971, Pub. L. 92–138, § 12, 85 Stat. 386.)

AMENDMENTS

1971—Subsec. (b)(1). Pub. L. 92–138, § 12(a)(1), added provisions respecting establishment of proportionate shares for farms in mainland cane sugar areas, including provision for separate State acreage allotment, different methods for determination and administrtion of shares

in different States, acreage reserve, conditional allocations, finality of allocation, adjustments, and crop year to be used in consideration of past production.

Subsec. (b)(2). Pub. L. 92–138, § 12(a)(2), added provisions for accural of personal sugar beet production history of farm operator who dies or becomes incapacitated conditioned upon continuance within a three year period of sugar beet operations and for credit of production history, equal to acreage last planted by deceased or incapacitated farm operator, to year when sugar beets were not planted.

Subsec. (b)(3). Pub. L. 92–138, § 12(a)(3), substituted provisions making acreage available for growth and expansion of the beet sugar industry through allocation of acreage from national sugar beet requirements; during 1972, 1973, and 1974, required to yield a maximum of 100,000 short tons, raw value, of sugar for localities to be served by new or substantially enlarged existing sugar beet processing facilities, providing the allocations to be for a three year period and limited as to any one processing facility to acreage required to yield maximum of 50,000 short tons, raw value, of sugar and a minimum of 25,000 short tons for former provisions making acreage available for growth and expansion through reservation from national sugarbeet acreage requirement from 1962 through 1966, acreage required to yield a maximum of 65,000 short tons, raw value, of sugar, and providing beginning with 1966 that total acreage previously reserved and not used plus that reserved for current year shall not exceed acreage required to produce 100,000 short tons, raw value, of sugar.

Subsec. (b)(4). Pub. L. 92–138. § 12(a)(4), substituted" "acreage allocation for new or substantially enlarged existing sugar beet processing facilities", for "distribution of the sugarbeet acreage reserve" and "sugar beet" for "sugarbeet" in two instances.

Subsec. (b)(5). Pub. L. 92–138, § 12(a)(5), deleted from "producers in any local producing area whose past production" the phrase "in any local producing area".

Subsec. (b)(9). Pub. L. 92–138, § 12(a)(6), substituted authorization for reservation from national sugar beet acreage requirements for 1972, 1973, and 1974 crops of sugar beets acreage required to yield 25,000 short tons of sugar, raw value for processing facility which closed during 1970, if such facility will resume operations successfully, for prior authorization for reservation from national sugarbeet acreage requirements for 1966, 1967, and 1968 crops of sugarbeets acreage estimated to yield 25,000 short tons, raw value for nonaffiliated single plant processor, and omitted authorization for reservation from acreage otherwise to be allocated to sugarcane producers in the mainland cane sugar area for 1965 and 1966 crops of sugarcane the acreage estimated to yield 16,000 short tons of sugar, raw value for each crop to relieve hardship or part of new producers, and provision that acreage allocated for 1965 crop shall be in addition to any other allocation, and substituted in last sentence "such acreage is" for "such acreages are".

Subsec. (b)(10). Pub. L. 92–138, § 12(a)(7), added par. (10).

Subsec. (c). Pub. L. 92–138, § 12(b), substituted provisions relating to acreage allocations for new cane sugar producing area, basis of distribution to farms, time of making allocations, and irrevocability and revocability of allocations for former provisions for payments effective with respect to sugar or liquid sugar commercially recoverable from sugar beets and sugarcane grown on a farm commencing with the 1948 crop year.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–138 effective on Jan. 1, 1972, see section 19 of Pub. L. 92–138, set out as a note under section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1112, 1115, 1131, 1133 of this title.

§ 1133. Acreage abandonment and crop deficiency.

In addition to the amount of sugar or liquid sugar with respect to which payments are authorized under subsection (a) of section 1132 of this title, the Secretary is also authorized to make payments, on the conditions provided in section 1131 of this title, with respect to bona fide abandonment of planted acreage and crop deficiencies of harvested acreage, resulting from drought, flood, storm, freeze, disease, or insects, as determined in accordance with regulations issued by the Secretary, on the following quantities of sugar or liquid sugar: (1) With respect to such bona fide abandonment of each planted acre of sugar beets or sugarcane, one-third of the normal yield of commercially recoverable sugar or liquid sugar per acre for the farm, as determined by the Secretary; and (2) with respect to such crop deficiencies of harvested acreage of sugar beets or sugarcane, the excess of 80 per centum of the normal yield of commercially recoverable sugar or liquid sugar for such acreage for the farm, as determined by the Secretary, over the actual yield. (As amended Oct. 14, 1971, Pub. L. 92–138, § 13, 85 Stat. 388.)

AMENDMENTS

1971—Pub. L. 92–138 deleted "which cause such damage to all or a substantial part of the crop of sugar beets or sugarcane in the same factory district (as established by the Secretary), county, parish, municipality, or local producing area," preceding "as determined".

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–138 effective on Jan. 1, 1972, see section 19 of Pub. L. 92–138, set out as a note under section 1101 of this title.

§ 1136. Finality of Secretary's determinations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1154 of this title.

§ 1137. Territorial application.

This subchapter shall apply to the continental United States, Hawaii, and Puerto Rico. (As amended Oct. 14, 1971, Pub. L. 92–138, § 14, 85 Stat. 388.)

AMENDMENTS

1971—Pub. L. 92–138 made the subchapter inapplicable to the Virgin Islands.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–138 effective on Jan. 1, 1972, see section 19 of Pub. L. 92–138, set out as a note under section 1101 of this title.

SUBCHAPTER IV.—EXCISE TAXES WITH RESPECT TO SUGAR

§ 1153. Rules and regulations; violation; publication of Secretary's determinations; independent weighmasters.

* * * * *

(c) Whenever the Secretary determines that such action is necessary to protect the interests of the United States, consumers of sugar, or the exporters or importers of sugar, he is authorized to require, in accordance with such rules and regulations as he may prescribe, any or all shipments of imported sugar to be weighed by persons not controlled, directly or indirectly, by any person having a direct financial interest in such sugar. (As amended Oct. 14, 1971, Pub. L. 92–138, § 15, 85 Stat. 388.)

AMENDMENTS

1971—Subsec. (c). Pub. L. 92–138 added subsec. (c).

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–138 effective on Jan. 1, 1972, see section 19 of Pub. L. 92–138, set out as a note under section 1101 of this title.

§ 1154. Jurisdiction of courts.

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, the provisions of this chapter or of any order or regulation made or issued pursuant to this chapter and, except as provided in sections 1115 and 1136 of this title, to review any regulation issued pursuant to this chapter in accordance with chapter 7 of Title 5. If and when the Secretary shall so request, it shall be the duty of the several United States attorneys, in their respective districts, to institute proceedings to enforce the remedies and to collect the penalties, fees and forfeitures provided for in this chapter. The remedies provided for in this chapter shall be in addition to, and not exclusive of, any of the remedies or penalties existing at law or in equity. (As amended Oct. 14, 1971, Pub. L. 92–138, § 16, 85 Stat. 389.)

AMENDMENTS

1971—Pub. L. 92–138 vested federal district courts, except as provided in setcions 1115 and 1136 of this title, with jurisdiction to review any regulation issued pursuant to this chapter in accordance with chapter 7 of Title 5.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–138 effective on Jan. 1, 1972, see section 19 of Pub. L. 92–138, set out as a note under section 1101 of this title.

§ 1158. Suspension of quota and authorization provisions.

* * * * *

(c) Seizure of property of United States citizens; discrimination in taxation and other exactions; restrictive maintenance or operational conditions; remedial measures; duration of suspension; allocation of suspended quantities.

In any case in which a nation or political subdivision thereof has, on or after January 1, 1967, (1) nationalized, expropriated, or otherwise seized the ownership or control of the property or business enterprise owned or controlled by United States citizens or any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens, or (2) imposed upon or enforced against such property or business so owned or controlled, discriminatory taxes or other exactions, or restrictive maintenance or operational conditions (including limiting or reducing participation in production, export, or sale of sugar to the United States under quota allocation pursuant to this chapter) not imposed or enforced with respect to the property or business enterprise of a like nature owned or operated by its own nationals or the nationals of any government other than the Government of the United States, or (3) imposed upon or enforced against such property or business enterprise so owned or controlled, discriminatory taxes or other exactions, or restrictive maintenance or operational conditions (including limiting or reducing participation in production, export, or sale of sugar to the United States under quota allocation pursuant to this chapter), or has taken other actions, which have the effect of nationalizing, expropriating or otherwise seizing ownership or control of such property or business enterprise, or (4) violated the provisions of any bilateral or multilateral international agreement to which the United States is a party, designed to protect such property or business enterprise so owned or controlled, and has failed within six months following the taking of action in any of the above categories to take appropriate and adequate steps to remedy such situation and to discharge its obligations under international law toward such citizen or entity, including the prompt payment to the owner or owners of such property or business enterprise so nationalized, expropriated or otherwise seized or to provide relief from such taxes, exactions, conditions or breaches of such international agreements, as the case may be, or to arrange, with the agreement of the parties concerned, for submitting the question in dispute to arbitration or conciliation in accordance with procedures under which final and binding decision or settlement will be reached and full payment or arrangements with the owners for such payment made within twelve months following such submission, the President may withhold or suspend all or any part of the quota under this chapter of such national, and either in addition or as an alternative, the President may, under such terms and conditions as he may prescribe, cause to be levied and collected at the port of entry an impost on any or all sugar sought to be imported into the United States from such nation in an amount not to exceed $20 per ton, such moneys to be covered in the Treasury of the United States into a special trust fund, and he shall use such fund to make payment of claims arising on or after January 1, 1961, as a result of such nationalization, expropriation, or other type of seizure or action set forth herein, except that if such nation participates in the quota for the West Indies, the President may suspend a portion of the quota for the West Indies which is not in excess of the quantity imported from that nation during the preceding year, until he is satisfied that appropriate steps are being taken, and either in addition or as an alternative he may cause to be levied and collected an impost in an amount not to exceed $20 per ton on any or all sugar sought to be imported into the United States from such nation for the payment of claims as provided herein. Any quantity so withheld or suspended shall be allocated under section 1112(d)(1)(B) of this title. With respect to any action taken during 1961 in any of the categories set forth in this subsection, the provisions of this subsection relating to levying and collecting an impost shall apply only if the President so determines. (As amended Oct. 14, 1971, Pub. L. 92–138, § 17, 85 Stat. 389.)

AMENDMENTS

1971—Subsec. (c). Pub. L. 92–138 substituted ", on or after January 1, 1961," for "hereafter" in introductory text; inserted in cls. (2) and (3) "(including limiting or reducing participation in production, export, or sale of sugar to the United States under quota allocation pursuant to this chapter)" following "operational conditions"; substituted provision for Presidential withholding or suspension of quota of an appropriating nation, and either in addition or as an alternative, causing levey and collection of an impost limited to $20 per ton, the moneys to be a special trust fund in the Treasury for payment of claims after Jan. 1, 1961, as result of any type of seizure or action, and for Presidential suspension of quota for West Indies until appropriate steps are being taken, and either in addition or as an alternative, causing levy and collection of an impost limited to $20 per ton for payment of claims

for prior provision for Presidential suspension of quota, proration of quota, or authorization to import sugar under this chapter of such nation until appropriate steps are being taken; substituted provision for allocation of withheld or suspended quantity under section 1112(d)(1)(B) of this title for allocation of suspended quantity in same manner as deficits are allocated under section 1114 of this title; and provided for Presidential determination of need for levy and collection of impost with respect to any action taken during 1961.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–138 effective on Jan. 1, 1972, see section 19 of Pub. L. 92–138, set out as a note under section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1112, 1117 of this title.

Chapter 35.—AGRICULTURAL ADJUSTMENT ACT OF 1938

GENERAL PROVISIONS

Sec.
1282a. Emergency supply of agricultural products [New].
(a) Establishment of prices to insure orderly, adequate and steady supply of products.
(b) Adjustments in maximum price of products subject to any price control or freeze order or regulation to increase supply.
(c) Definition of "agricultural products".
(d) Implementation of policies to encourage full production in periods of short supply at fair and reasonable prices.

SUBCHAPTER II.—LOANS, PARITY PAYMENTS, CONSUMER SAFEGUARDS, MARKETING QUOTAS, AND MARKETING CERTIFICATES

B. MARKETING QUOTAS

PART I.—MARKETING QUOTAS—TOBACCO

1314e. Burley tobacco poundage quotas [New].
(a) Proclamation; referendum.
(b) Proclamation for second and third years; referendum.
(c) Amount of national marketing quota, determination; national reserve, establishment.
(d) Farm yields; determination; limitation.
(e) Farm marketing quotas; preliminary quotas, determination, limitation; succeeding years, quota computation, limitations, increase and reduction of quotas; new farms, limitation.
(f) Reductions for false information.
(g) Leases and transfers of farm quotas; limitations.
(h) Loss of quotas through underplanting.
(i) Marketing penalties.
(j) Regulations.
1314f. Nonquota tobacco [New].

PART II.—ACREAGE ALLOTMENTS—CORN

1329a. Discontinuance of acreage allotments on corn [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1428, 1444a of this title.

GENERAL PROVISIONS

§ 1282a. Emergency supply of agricultural products.

(a) Establishment of prices to insure orderly, adequate and steady supply of products.

Notwithstanding any other provision of law, the Secretary of Agriculture shall assist farmers, processors, and distributors in obtaining such prices for agricultural products that an orderly, adequate and steady supply of such products will exist for the consumers of this nation.

(b) Adjustments in maximum price of products subject to any price control or freeze order or regulation to increase supply.

The President shall make appropriate adjustments in the maximum price which may be charged under the provisions of Executive Order 11723 (dated June 13, 1973) or any subsequent Executive Order for any agricultural products (at any point in the distribution chain) as to which the Secretary of Agriculture certifies to the President that the supply of the product will be reduced to unacceptably low levels as a result of any price control or freeze order or regulation and that alternative means for increasing the supply are not available.

(c) Definition of "agricultural products".

Under this section, the term "agricultural products" shall include meat, poultry, vegetables, fruits and all other agricultural commodities in raw or processed form, except forestry products or fish or fishery products.

(d) Implementation of policies to encourage full production in periods of short supply at fair and reasonable prices.

The Secretary of Agriculture is directed to implement policies under this Act which are designed to encourage American farmers to produce to their full capabilities during periods of short supply to assure American consumers with an adequate supply of food and fiber at fair and reasonable prices. (Pub. L. 91–524, title VIII, § 815, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 240.)

REFERENCES IN TEXT

This Act, referred to in the text, is the Agricultural Act of 1970. For distribution of such Act in this Code, see Short Title note set out under section 1305 of this title.

CODIFICATION

Section comprises a part of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 and not a part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

SUBCHAPTER II.—LOANS, PARITY PAYMENTS, CONSUMER SAFEGUARDS, MARKETING QUOTAS, AND MARKETING CERTIFICATES

A. DEFINITIONS, LOANS, PARITY PAYMENTS, AND CONSUMER SAFEGUARDS

§ 1301. Definitions.

* * * * * *

(b) Definitions applicable to one or more commodities.

For the purposes of this subchapter—

* * * * * *

(7) "Marketing year" means, in the case of the following commodities, the period beginning on the first and ending with the second date specified below:

Corn, October 1–September 30;
Cotton, August 1–July 31;
Rice, August 1–July 31;
Tobacco (flue-cured), July 1–June 30;
Tobacco (other than flue-cured), October 1–September 30;
Wheat, June 1–May 31.

* * * * * *

(13) * * *

* * * * *

(K) "Projected farm yield" for any crop of wheat shall be determined on the basis of the yield per harvested acre of such commodity in the farm during each of the three calendar years (five calendar years in the case of wheat) immediately preceding the year in which such projected farm yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields and for any significant changes in production practices, but in no event shall such projected farm yield be less than the normal yield for such farm as provided in subparagraph (E) of this paragraph.

* * * * *

(As amended Nov. 30, 1970, Pub. L. 91–524, title IV, § 405(b), as added Aug. 10, 1973, Pub. L. 93–86, § 1(12), 87 Stat. 229; July 25, 1975, Pub. L. 94–61, § 1, 89 Stat. 302.)

AMENDMENTS

1975—Subsec. (b)(7). Pub. L. 94–61 substituted "Wheat, June 1–May 31" for "Wheat, July 1–June 30".

1973—Subsec. (b)(13)(K). Pub. L. 91–524, § 405(b), as added by Pub. L. 93–86 inserted "(five calendar years in the case of wheat)" following "three calendar years".

EFFECTIVE DATE OF 1975 AMENDMENT

Section 2 of Pub. L. 94–61 provided that: "The amendment made by the first section of this Act [amending subsec. (b)(7) of this section] shall become effective June 1, 1975."

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 405(b) of Pub. L. 91–524, as added by section 1(12) of Pub. L. 93–86, provided in part that the amendment by section 405(b) of Pub. L. 91–524, is effective with respect to the 1974 through 1977 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 1111, 1301a, 1330, 1445, 1782 of this title; title 43 sections 615p, 615nn, 615qq, 615vvv, 615bbbb, 615iiii, 616*ll*, 616vv–4, 616fff–6, 616rrr, 616www, 616rrrr, 616xxxx, 620c, 1524.

§ 1305. Transfer of acreage allotments or feed grain bases on public lands upon request of State agencies.

Notwithstanding any other provision of law, the Secretary, upon the request of any agency of any State charged with the administration of the public lands of the State, may permit the transfer of acreage allotments or feed grain bases together with relevant production histories which have been determined pursuant to this chapter, or section 590p of Title 16, or the Agricultural Act of 1949, as amended, from any farm composed of public lands to any other farm or farms in the same county composed of public lands: *Provided*, That as a condition for the transfer of any allotment or base an acreage equal to or greater than the allotment or base transferred prior to adjustment, if any, shall be devoted to and maintained in permanent vegetative cover on the farm from which the transfer is made. The Secretary shall prescribe regulations which he deems necessary for the administration of this section, which may provide for adjusting downward the size of the allotment or base transferred if the farm to which the allotment or base is transferred normally has a higher yield per acre for the commodity for which the allotment or base is determined, for reasonable limitations on the size of the resulting allotments and bases on farms to which transfers are made, taking into account the size of the allotments and bases on farms of similar size in the community, and for retransferring allotments or bases and relevant histories if the conditions of the transfers are not fulfilled. The term "acreage allotments" as used in this section includes the farm base acreage allotments for upland cotton. (As amended Pub. L. 93–86, § 1(12), Aug. 10, 1973, 87 Stat. 229.)

AMENDMENTS

1973—Pub. L. 93–86 struck out provision that the term "acreage allotments" as used in this section includes the domestic allotment for wheat.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(12) of Pub. L. 93–86 provided in part that the amendment by section 1(12) of Pub. L. 93–86 is effective with the 1974 crop.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Sections 405 and 606 of Pub. L. 91–524, as amended by section 1(12), (22) of Pub. L. 93–86 provided in part that the amendments by Pub. L. 91–524 are effective only with respect to the 1971 through 1977 crops.

SHORT TITLE OF 1970 AMENDMENT

Section 1 of Pub. L. 91–524 provided: "That this Act [which, as amended by section 1 of Pub. L. 93–86, enacted sections 428b, 612c–2, 612c–3, 1282a, 1307, 1334a–1, 1339d, 1342a, 1350a, 1427a, 1434, 1441a, 1736e, 1930, and 2119 of this title, sections 590q–2 and 1501 to 1510 of Title 16, Conservation, and section 3122 of Title 42, The Public Health and Welfare, amended this section and sections 450j, 450*l*, 608c, 1301, 1306, 1344b, 1350, 1374, 1378, 1379, 1379b, 1379c, 1379d, 1379e, 1379g, 1385, 1427, 1428, 1441 note, 1444, 1445a, 1446, 1446a, 1703, 1704, 1736, 1736c, 1782, 1787, 1925, 1926, 1932, 2119, 2651, and 2654 of this title and section 590j of Title 16, Conservation, and enacted provisions set out as notes under this section and sections 135b, 608c, 624, 1301, 1306, 1330, 1331, 1332, 1333, 1334, 1335, 1336, 1338, 1339, 1342, 1342a, 1343, 1344, 1344b, 1345, 1346, 1350, 1359, 1377, 1378, 1379, 1379b, 1379c, 1379d, 1379e, 1385, 1427, 1428, 1441, 1444, 1445a, 1446, and 1446d of this title, section 142 of Title 13, Census, and section 71 of Title 45 Railroads] may be cited as the 'Agricultural Act of 1970'."

§ 1306. Projected yields; determination; base period.

Notwithstanding any other provision of law, in the determination of farm yields the Secretary may use projected yields in lieu of normal yields. In the determination of such yields the Secretary shall take into account the actual yield proved by the producer for the base period used in determining the projected yield (except that in the case of wheat, if the yield is abnormally low in any one of the calendar years of the base period because of drought, flood, or other natural disaster, the Secretary shall take into account the actual yield proved by the producer in the other four years of such base period), and the projected yield shall not be less than such actual yield proved by the producer. (As amended Pub. L. 91–524, title IV, § 405(b), as added Pub. L. 93–86, § 1(12), Aug. 10, 1973, 87 Stat. 229.

AMENDMENTS

1973—Pub. L. 91–524, § 405(b), as added by Pub. L. 93–86 inserted "(except that in the case of wheat, if the yield is abnormally low in any one of the calendar years of the base period because of drought, flood, or other natural disaster, the Secretary shall take into account the actual yield proved by the producer in the other four years of such base period)" following "determining the projected yield".

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 405(b) of Pub. L. 91–524, as added by section 1(12) of Pub. L. 93–86, provided in part that the amendment by section 405(b) of Pub. L. 91–524 is effective with respect to the 1974 through 1977 crops.

§ 1307. Limitation on payments under wheat, feed grains, and cotton programs for 1974 through 1977 crops.

Notwithstanding any other provision of law—

(1) The total amount of payments which a person shall be entitled to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1977 crops of the commodities shall not exceed $20,000.

(2) The term "payments" as used in this section shall not include loans or purchases, or any part of any payment which is determined by the Secretary to represent compensation for resource adjustment or public access for recreation.

(3) If the Secretary determines that the total amount of payments which will be earned by any person under the program in effect for any crop will be reduced under this section, the set-aside acreage for the farm or farms on which such person will be sharing in payments earned under such program shall be reduced to such extent and in such manner as the Secretary determines will be fair and reasonable in relation to the amount of the payment reduction.

(4) The Secretary shall issue regulations defining the term "person" and prescribing such rules as he determines necessary to assure a fair and reasonable application of such limitation: *Provided*, That the provisions of this Act which limit payments to any person shall not be applicable to lands owned by States, political subdivisions, or agencies thereof, so long as such lands are farmed primarily in the direct furtherance of a public function, as determined by the Secretary. The rules for determining whether corporations and their stockholders may be considered as separate persons shall be in accordance with the regulations issued by the Secretary on December 18, 1970.

(As amended Pub. L. 93–86, § 1(1), Aug. 10, 1973, 87 Stat. 221.)

AMENDMENTS

1973—Par. (1). Pub. L. 93–86 substituted "one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1977 crops of the Commodities shall not exceed $20,000" for "each of the annual programs established by titles IV, V, and VI of this Act for the 1971, 1972, or 1973 crop of the commodity shall not exceed $55,000".

Par. (2). Pub. L. 93–86 substituted "shall not include loans or purchases, or any part of any payment which is determined by the Secretary to represent compensation for resource adjustment or public access for recreation" for "includes price-support payments, set-aside payments, diversion payments, public access payments, and marketing certificates, but does not include loans or purchases".

Par. (3). Pub. L. 93–86 re-enacted par, without change.

Par. (4). Pub. L. 93–86 added provision that the rules for determining whether corporations and their stockholders may be considered as separate persons shall be in accordance with the regulations issued by the Secretary on December 18, 1970.

SHORT TITLE

Section 5 of Pub. L. 93–86 provided that: "This Act [which enacted sections 428b, 612c–2, 612c–3, 1282a, 1427a, 1434, 1441a, 1736e, and 2026 of this title and sections 1501 to 1510 of Title 16, amended this section and sections 450j, 450*l*, 608c, 1301, 1305, 1306, 1334a–1, 1342a, 1344b, 1350, 1374, 1379b, 1379c, 1379g, 1428, 1444, 1445a, 1446, 1446a, 1703, 1736c, 1782, 1787, 1925, 1926, 1932, 2012, 2014, 2016, 2019, 2025, 2119, 2651, and 2654 of this title, repealed section 1628 of this title, enacted provisions set out as notes under sections 608c, 612c, 624, 1301, 1305, 1306, 1344b, 1350, 1379b, 1379c, 1379d, 1441, 1444, 1445a, and 1446 of this title, section 142 of Title 13, and section 71 of Title 45, and amended provisions set out as notes under sections 135b, 608c, 1305, 1330–1336, 1338, 1339, 1342, 1343, 1344, 1344b, 1345, 1346, 1377–1379, 1379b, 1379c, 1385, 1427, 1428, 1441, 1445a, 1446, and 1446d of this title] may be cited as the 'Agriculture and Consumer Protection Act of 1973'."

B. MARKETING QUOTAS

PART I.—MARKETING QUOTAS—TOBACCO

§ 1312. National marketing quota.

DEFERMENT OF PROCLAMATION OF MARKETING QUOTAS FOR BURLEY TOBACCO

Pub. L. 92–1, Mar. 1, 1971, 85 Stat. 3, provided: "That, notwithstanding any other provision of law, the Secretary of Agriculture may defer any proclamation under section 312 of the Agricultural Adjustment Act of 1938, as amended [this section], with respect to national marketing quotas for burley tobacco for the three marketing years beginning October 1, 1971, until the date he determines is necessary to permit growers to be notified of their farm marketing quotas and the referendum to be held prior to normal planting time."

BURLEY TOBACCO MARKETING YEARS 1971, 1972, AND 1973

Pub. L. 92–10, § 4, Apr. 14, 1971, 85 Stat. 27, provided that: "Any action taken by the Secretary pursuant to section 312 of the Act (7 U.S.C. 1312) [this section] for burley tobacco for any of the three marketing years beginning October 1, 1971, prior to the enactment of this section [Apr. 14, 1971], shall be of no effect."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314e of this title.

§ 1314. Penalties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314e of this title.

§ 1314b. Leases of tobacco acreage allotments or quotas.

* * * * *

(c) Filing with county committees; determination of compliance with requirements; calculation of normal yield for transfer.

The lease and transfer of any allotment shall not be effective until a copy of such lease is filed with and determined by the county committee of the county in which the farms involved are located to be in compliance with the provisions of this section. Any lease of Flue-cured tobacco acreage-poundage marketing quotas from any farm with an acreage-poundage marketing quota in excess of 2,000 pounds filed on or after June 15 in any year shall not be effective unless the acreage planted on both the lessor and lessee farms during the current marketing year was as much as 50 per centum of the farm acreage allotment in effect for such year. If the normal yield established by the county committee for the farm to which the allotment is transferred does not exceed the normal yield established by the county committee for the farm from which the allotment is transferred by more than 10 per centum, the lease and transfer shall be approved acre for acre. If the normal yield for the farm to which the allotment is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 per centum, the county committee shall make a down-

ward adjustment in the amount of the acreage allotment transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the normal yield established by the farm to which the allotment is transferred.

* * * * *

(g) Georgia and South Carolina disaster areas; emergency allotment leases and transfers for 1973.

Notwithstanding any provision of this section, when as a result of flood, hail, wind, tornado, or other natural disaster the Secretary determines (1) that one of the counties hereinafter listed has suffered a loss of 10 per centum or more in the number of acres of tobacco planted and (2) that a lease of such tobacco allotment or quota will not impair the effective operation of the tobacco marketing quota or price support program, he may permit the owner and operator of any farm within Atkinson, Bacon, Berrien, Clinch, Cook, Lanier, Lowndes, or Ware Counties, Georgia, or Clarendon, Lee, Sumter, or Williamsburg Counties, South Carolina, which has suffered a loss of 30 per centum or more in the number of acres of tobacco planted of such crop to lease all or any part of such allotment or quota to any other owners or operators in the same county, or nearby counties within the same State, for use in such counties for the year 1973 on a farm or farms having a current tobacco allotment or quota of the same kind. In the case of a lease and transfer to an owner or operator in another county pursuant to this subsection, the lease and transfer shall not be effective until a copy of the lease is filed with and determined by the county committee of the county to which the transfer is made to be in compliance with the provisions of this subsection.

(h) North Carolina disaster areas; emergency allotment leases and transfers for 1974.

Notwithstanding any provision of this section, when as a result of drought, flood, damage due to excessive rain, hail, wind, tornado, or other natural disaster, the Secretary determines (1) that one of the counties hereinafter listed has suffered a loss of 10 per centum or more in the number of acres of tobacco planted, and (2) that a lease of such tobacco allotment or quota will not impair the effective operation of the tobacco marketing quota or price support program, he may permit the owner and operator of any farm within Craven, Carteret and Jones Counties, North Carolina, which has suffered a loss of 10 per centum or more in the number of acres of tobacco planted of such crop to lease all or any part of such allotment or quota to any other owners or operators in the same county, or nearby counties within the same State, for use in such counties for the year 1974 on a farm or farms having a current tobacco allotment or quota of the same kind. In the case of a lease and transfer to an owner or operator in another county pursuant to this subsection, the lease and transfer shall not be effective until a copy of the lease is filed with and determined by the county committee of the county to which the transfer is made to be in compliance with the provisions of this subsection. (As amended June 6, 1972, Pub. L. 92–311, 86 Stat. 215; Aug. 1, 1973, Pub. L. 93–80, 87 Stat. 178; Oct. 24, 1974, Pub. L. 93–464, 88 Stat. 1416.)

AMENDMENTS

1974—Subsec. (h) Pub. L. 93–464 added subsec. (h).

1973—Subsec. (g). Pub. L. 93–80 added subsec. (g).

1972—Subsec. (c). Pub. L. 92–311 substituted provisions that leases of Flue-cured tobacco acreage-poundage marketing quotas from any farm with an acreage-poundage marketing quota in excess of 2,000 pounds filed on or after June 15 in any year will not be effective unless the acreage planted on lessor and lessee farms during that year was 50 per centum of the farm acreage allotment in effect for such year, for provisions that such lease and transfer shall not be effective unless a copy of the lease was filed with the county committee prior to a closing date, not later than the normal planting time in the county, established by the Secretary.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1316 of this title.

§ 1314c. Acreage-poundage quotas.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1445 of this title.

§ 1314d. Fire-cured, dark air-cured, and Virginia sun-cured tobacco.

* * * * *

(b) Conditions for transfers.

Transfers under this section shall be subject to the following conditions: (1) no allotment or quota shall be transferred to a farm in another county: *Provided,* That in the case of Virginia fire-cured tobacco type 21 and Virginia sun-cured tobacco type 37, any such transfer may be made to a farm in another county in the same State; (2) no transfer other than by annual lease of an allotment or quota from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholders; (3) no sale of a farm allotment or quota from a farm shall be permitted if any sale of allotment or quota to the same farm has been made within the three immediately preceding crop years; and (4) no transfer of allotment or quota shall be effective until a record thereof is filed with the county committee of the county to which such transfer is made and such committee determines that the transfer complies with the provisions of this section.

* * * * *

(As amended Oct. 23, 1971, Pub. L. 92–144, 85 Stat. 393.)

AMENDMENTS

1971—Subsec. (b)(1). Pub. L. 92–144 inserted proviso referring to Virginia fire-cured tobacco type 21 and Virginia sun-cured tobacco type 37.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314e of this title.

§ 1314e. Burley tobacco poundage quotas.

(a) Proclamation; referendum.

Notwithstanding any other provision of law, the Secretary shall, within thirty days following April 14, 1971, proclaim national marketing quotas for burley tobacco for the three marketing years beginning October 1, 1971, and determine and announce the amount of the marketing quota for burley tobacco for the marketing year beginning October 1, 1971, as provided in this section.

Within thirty days following such proclamation, the Secretary shall conduct a referendum of the

farmers engaged in the production of the 1970 crop of burley tobacco to determine whether they favor or oppose the establishment of farm marketing quotas on a poundage basis as provided in this section for the three marketing years beginning October 1, 1971. If the Secretary determines that two-thirds or more of the farmers voting in such referendum approve marketing quotas on a poundage basis, marketing quotas as provided in this section shall be in effect for those three marketing years. If marketing quotas on a poundage basis are not approved by at least two-thirds of the farmers voting in such referendum, no marketing quotas or price support for burley tobacco shall be in effect for the marketing year beginning October 1, 1971. Thereafter, the provisions of section 1312 of this title shall apply: *Provided,* That national marketing quotas for burley tobacco for any marketing year subsequent to the marketing year beginning October 1, 1971, shall be proclaimed as provided in this section.

(b) Proclamation for second and third years; referendum.

The Secretary shall determine and announce, not later than the February 1 preceding the second and third marketing years of any three-year period for which marketing quotas on a poundage basis are in effect under this section, the amount of the national marketing quota for each of such years. If marketing quotas have been made effective on a poundage basis under this section, the Secretary shall, not later than February 1 of the last year of three consecutive marketing years for which marketing quotas are in effect under this section, proclaim national marketing quotas for burley tobacco for the next three succeeding marketing years as provided in this section. Within thirty days following such proclamation, the Secretary shall conduct a referendum in accordance with section 1312(c) of this title. If the Secretary determines that more than one-third of the farmers voting oppose the national marketing quotas, he shall announce the results and no marketing quotas or price support shall be in effect for such kind of tobacco for the first marketing year of such three-year period. Thereafter, the provisions of section 1312 of this title shall apply: *Provided,* That the national marketing quota and farm marketing quotas shall be determined as provide in this section. Notice of the farm marketing quota which will be in effect for his farm for the first marketing year covered by any referendum under this section shall, insofar as practicable, be mailed to the farm operator in sufficient time to be received prior to the referendum.

(c) Amount of national marketing quota, determination; national reserve, establishment.

The national marketing quota determined under this section for burley tobacco for any marketing year shall be the amount produced in the United States which the Secretary estimates will be utilized in the United States and will be exported during such marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 5 per centum of such estimated utilization and exports. For each marketing year for which marketing quotas are in effect under this section, the Secretary in his discretion may establish a reserve (hereinafter referred to as the "national reserve") from the national marketing quota in an amount not in excess of 1 per centum of the national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms (that is, farms for which farm marketing quotas are not otherwise established).

(d) Farm yields; determination; limitation.

When a national marketing quota is first proclaimed under this section, the Secretary shall through local committees determine a farm yield for each farm for which a burley tobacco acreage allotment was established for the marketing year beginning October 1, 1970. Such yield shall be determined by averaging the yield per acre for the four highest years of the five consecutive years beginning with the 1966 crop year: *Provided,* That if burley tobacco was produced on the farm in fewer than five of such years, the farm yield shall be the simple average of the yields obtained in the years during such period that burley tobacco was produced on the farm: *Provided further,* That if no burley tobacco was produced on the farm but the farm was considered as having planted burley tobacco during the immediately preceding five years, the farm yield will be appraised on the basis of the yields established for similar farms in the area on which burley tobacco was produced during such five-year period: *And provided further,* That the farm yield established for any farm shall not exceed three thousand five hundred pounds per acre.

(e) Farm marketing quotas; preliminary quotas, determination, limitation; succeeding years, quota computation, limitations, increase and reduction of quotas; new farms, limitation.

A preliminary farm marketing quota shall be determined for each farm for which a burley tobacco acreage allotment was established for the marketing year beginning October 1, 1970, by multiplying the farm yield determined under subsection (d) of this section by the farm acreage allotment (prior to any reduction for violation of regulations issued pursuant to the chapter) established for such farm for the marketing year beginning October 1, 1970. For each farm for which such a preliminary farm marketing quota is determined, a farm marketing quota for the first year shall be determined by multiplying the preliminary farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection (c) of this section (less the national reserve) by the sum of all preliminary farm marketing quotas as determined under this subsection: *Provided,* That such national factor shall not be less than 95 per centum.

The farm marketing quota for each succeeding year shall be determined by multiplying the previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection (c) of this section (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding

year for all farms for which burley tobacco marketing quotas will be determined for such succeeding marketing year: *Provided*, That such national factor shall not be less than 95 per centum: *Provided further*, That for the marketing years beginning October 1, 1972, and October 1, 1973, the farm marketing quota for any farm shall not be less than the smaller of (1) one-half acre times the farm yield times one-half the sum of the figure one and the national factor for the current year, or (2) the farm marketing quota for the immediately preceding marketing year times one-half the sum of the figure one and the national factor for the current year. The farm marketing quota so computed for any farm for any year shall be increased by the number of pounds by which marketings from the farm during the immediately preceding year were less than the farm marketing quota (after adjustments): *Provided*, That any such increase shall not exceed the amount of the farm marketing quota (including leased pounds) for the immediately preceding marketing year prior to any increase for undermarketings or decrease for overmarketings. The farm marketing quota so computed for each farm for any year shall be reduced by the number of pounds by which marketing from the farm during the immediately preceding year exceeded the farm marketing quota (after adjustments): *Provided*, That if, on account of excess marketings in the preceding year, the farm marketing quota is reduced to zero pounds without reflecting the entire reduction required, the additional reduction required shall be made in subsequent marketing years.

The farm marketing quota for a new farm shall be the number of pounds determined by the county committee with approval of the State committee to be fair and reasonable for the farm on the basis of the past burley tobacco experience of the farm operator; the land, labor, and equipment available for the production of burley tobacco; crop rotation practices, and the soil and other physical factors affecting the production of burley tobacco: *Provided*, That the farm marketing quota for any such new farm shall not exceed 50 per centum of the average of the farm marketing quotas for similar farms for which farm marketing quotas are otherwise established: *Provided further*, That the number of pounds allocated to all new farms shall not exceed that portion of the national reserve provided by the Secretary for establishing quotas for new farms.

(f) Reductions for false information.

When a poundage program is in effect under this section, the farm marketing quota next established for any farm shall be reduced by the amount of burley tobacco produced on any farm (1) which is marketed as having been produced on a different farm; (2) for which proof of disposition is not furnished as required by the Secretary; and (3) as to which any producer on the farm files, or aids or acquiesces in the filing of, any false report with respect to the production or marketings of tobacco: *Provided*, That if the Secretary through the local committee finds that no person connected with such farm caused, aided, or acquiesced in any such irregularity, the next established farm marketing quota shall not be reduced under this subsection. The reductions required under this subsection shall be in addition to any other adjustments made pursuant to this section.

(g) Leases and transfers of farm quotas; limitations.

When a poundage program is in effect under this section, farm marketing quotas (after adjustments) for burley tobacco may be leased and transferred to other farms in the same county under the terms and conditions contained in section 1314d of this title: *Provided*, That such leases and transfers shall be on a pound for pound basis: *Provided further*, That any adjustment for undermarketings or overmarketings shall be attributed to the farm to which leased and transferred: *Provided further*, That not more than fifteen thousand pounds may be leased and transferred to any farm under this section: *And provided further*, That the marketing quota determined for any farm subsequent to such lease and transfer shall not exceed an amount determined by multiplying the farm yield established under subsection (d) of this section by 50 per centum of the acreage of cropland in the farm.

(h) Loss of quotas through underplanting.

Effective with the marketing year beginning October 1, 1976, no marketing quota, other than a new farm marketing quota, shall be established for a farm on which no burley tobacco was planted or considered planted in any of the five years immediately preceding the year for which farm marketing quotas are being established.

(i) Marketing penalties.

When marketing quotas under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 1314 of this title shall apply, except that:

(1) No penalty on excess tobacco shall be due or collected until 110 per centum of the farm marketing quota (after adjustments) for a farm has been marketed, but with respect to each pound of tobacco marketed in excess of such percentage the full penalty rate shall be due, payable, and collected at the time of marketing on each pound of tobacco marketed, and any tobacco marketed in excess of 100 per centum of the farm marketing quota (after adjustments) will require a reduction in subsequent farm marketing quotas in accordance with subsection (e) of this section: *Provided*, That if the Secretary, in his discretion, determines it is desirable to encourage additional marketings of any grades of burley tobacco during any marketing year to insure traditional market patterns to meet the normal demands of export and domestic markets, he may authorize the marketing of such grades without the payment of penalty or deduction from subsequent quotas to the extent of 5 per centum of the farm marketing quota for the farm on which the tobacco was produced, and such marketings shall be eligible for price support.

(2) The provisions with respect to penalties contained in the third sentence of section 1314(a) of this title shall be revised to read: "If any producer

falsely identifies or fails to account for the disposition of any tobacco, the Secretary, in lieu of assessing and collecting penalties based on actual marketings of excess tobacco, may elect to assess a penalty computed by multiplying the full penalty rate by an amount of tobacco equal to 25 per centum of the farm marketing quota (after adjustments) and the penalty in respect thereof shall be paid and remitted by the producer."

(3) The provisions contained in the fourth sentence of section 1314(a) of this title shall not be applicable. For the first year a marketing quota program established under the provisions of this section is in effect, the farm marketing quota determined under the provisions of subsection (e) of this section shall receive a temporary upward adjustment equal to the amount of carryover penalty-free burley tobacco for the farm. For subsequent years, the provisions of subsection (c) of this section shall apply.

(j) Regulations.

The Secretary shall prescribe such regulations as he considers necessary for carrying out the provisions of this section. (Feb. 16, 1938, ch. 30, title III, § 319, as added Apr. 14, 1971, Pub. L. 92–10, § 1, 85 Stat. 23.)

BURLEY TOBACCO MARKETING YEARS 1971, 1972, AND 1973

Action of Secretary under section 1312 of this title for burley tobacco for marketing years 1971, 1972, and 1973, prior to Apr. 14, 1971, without any effect, see section 4 of Pub. L. 92–10, set out as a note under section 1312 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1378, 1445 of this title.

§ 1314f. Nonquota tobacco.

Notwithstanding any other provision of law, beginning with the 1975 crop, any kind of tobacco for which marketing quotas are not in effect that is produced in an area where producers who are engaged in the production of a kind of tobacco traditionally produced in the area have approved marketing quotas under this chapter shall be subject to the quota for the kind of tobacco traditionally produced in the area: *Provided, however,* That this section shall not apply in any case in which the Secretary or his designee finds any such nonquota tobacco is readily and distinguishably different from any kind of tobacco produced under quota, because of seed variety, cultural practices, method of curing and other factors affecting its physical characteristics, as determined through the application of the Federal Standards of Inspection and Identification of quota types and the tobacco does not possess any of the distinguishable characteristics of a quota type. If marketing quotas are in effect for more than one kind of tobacco in an area, any nonquota tobacco produced in the area shall be subject to quotas for the kind of tobacco traditionally produced in the area having the highest price support under the Agricultural Act of 1949. (Feb. 16, 1938, ch. 30, title III, § 320, as added Sept. 3, 1974, Pub. L. 93–411, 88 Stat. 1089.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in text, is Act Oct. 31, 1949, c. 792, 63 Stat. 1051, which is classified to section 1301 et seq. of this title, section 713a–4 of Title 15, Commerce and Trade.

PART II.—ACREAGE ALLOTMENTS—CORN

§ 1321. Legislative finding of effect on interstate and foreign commerce and necessity of regulation.

* * * * *

The national public interest requires that the burdens on interstate and foreign commerce above described be removed by the exercise of Federal power. By reason of the administrative and physical impracticability of regulating the movement of livestock and livestock products in interstate and foreign commerce and the inadequacy of any such regulation to remove such burdens, such power can be feasibly exercised only by providing for the withholding from market of excessive and burdensome supplies of corn in times of excessive production, and providing a reserve supply of corn available for market in times of deficient production, in order that a stable and continuous flow of livestock and livestock products in interstate and foreign commerce may at all times be assured and maintained. (Feb. 16, 1938, ch. 30, title III, § 321, 52 Stat. 48.)

CODIFICATION

The last paragraph is set out in this supplement to correct typographical error in the main edition.

§ 1329a. Discontinuance of acreage allotments on corn.

Notwithstanding any other provision of law, acreage allotments and a commercial corn-producing area shall not be established for the 1959 and subsequent crops of corn. (Feb. 16, 1938, ch. 30, title III, § 330, as added Oct. 31, 1949, ch. 792, title I, § 104(b)(1), as added Aug. 28, 1958, Pub. L. 85–835, title II, § 201, 72 Stat. 994).

1958 REFERENDUM FOR SELECTION OF ALTERNATIVE CORN PROGRAM; OPERATIVE STATUS OF CERTAIN PROVISIONS

Corn producers voted for adoption of price support program as provided in section 1444a(b) of this title (254,262) rather than alternative corn acreage allotment and price support program (102,907), the ballot making operative sections 1329a and 1444b and repeal of section 1441(d)(4) of this title.

§ 1330. Supplemental provisions relating to wheat marketing quotas; marketing penalty for cotton and rice; crop loans on cotton, wheat, rice, tobacco, and peanuts.

INAPPLICABILITY TO CROPS OF WHEAT PLANTED FOR HARVEST IN CALENDAR YEARS 1971 THROUGH 1977

Pub. L. 91–524, title IV, § 406, Nov. 30, 1970, 84 Stat. 1367, as amended by Pub. L. 93–86, § 1(13), Aug. 10, 1973, 87 Stat. 229, provided that: "Public Law 74, Seventy-seventh Congress (68 Stat. 905) [this section], shall not be applicable to the crops of wheat planted for harvest in the calendar years 1971 through 1977."

PART III.—MARKETING QUOTAS—WHEAT

§ 1331. Legislative finding of effect on interstate and foreign commerce and necessity of regulation.

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS OF WHEAT

Pub. L. 91–524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to the 1971 through 1977 crops of wheat.

§ 1332. National marketing quota.

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS OF WHEAT

Pub. L. 91–524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973,

87 Stat. 229, provided that this section is not applicable to the 1971 through 1977 crops of wheat.

§ 1333. National acreage allotment.

INAPPLICABILITY TO 1972 THROUGH 1977 CROPS OF WHEAT

Pub. L. 91–524, title IV, § 404(2), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to the 1972 through 1977 crops of wheat.

§ 1334. Apportionment of national acreage allotment.

INAPPLICABILITY TO 1972 THROUGH 1977 CROPS OF WHEAT

Pub. L. 91–524, title IV, § 404(2), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to the 1972 through 1977 crops of wheat.

§ 1334a–1. Summer fallow farms; upper limit on required set aside for 1971 through 1977 wheat, feed grain, and cotton crops.

Notwithstanding any other provision of law, for the 1971 through 1977 crops of wheat, feed grains and cotton, if in any year at least 55 per centum of the cropland acreage on an established summer fallow farm is devoted to a summer fallow use, no further acreage shall be required to be set aside under the wheat, feed grain and cotton programs for such year. (As amended Pub. L. 93–86, § 1(17), Aug. 10, 1973, 87 Stat. 230.)

AMENDMENTS

1973—Pub. L. 93–86 substituted "1971 through 1977" for "1971, 1972, and 1973".

§ 1335. Small-farm exemption; small-farm base acreage; election; acreage allotment; land-use provisions; price support; wheat marketing certificates.

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS OF WHEAT

Pub. L. 91–524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to the 1971 through 1977 crops of wheat.

§ 1336. Referendum.

If a national marketing quota for wheat for one, two, or three marketing years is proclaimed, the Secretary shall, not later than August 1 of the calendar year in which such national marketing quota is proclaimed, conduct a referendum, by secret ballot, of farmers to determine whether they favor or oppose marketing quotas for the marketing year or years for which proclaimed. Any producer who has a farm acreage allotment shall be eligible to vote in any referendum held pursuant to this section, except that a producer who has a farm acreage allotment of less than fifteen acres shall not be eligible to vote unless the farm operator elected pursuant to section 1335 of this title to be subject to the farm marketing quota. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum, and if the Secretary determines that more than one-third of the farmers voting in the referendum voted against marketing quotas, the Secretary shall proclaim that marketing quotas will not be in effect with respect to the crop of wheat produced for harvest in the calendar year following the calendar year in which the referendum is held. If the Secretary determines that two-thirds or more of the farmers voting in a referendum approve marketing quotas for a period of two or three marketing years, no referendum shall be held for the subsequent year or years of such period. Notwithstanding any other provision hereof the referendum with respect to the national marketing quota for wheat for the marketing year beginning July 1, 1966, may be conducted not later than thirty days after adjournment sine die of the first session of the Eighty-ninth Congress. Notwithstanding any other provision hereof the referendum with respect to the national marketing quota for wheat for the marketing year beginning July 1, 1971, may be conducted not later than the earlier of the following: (1) thirty days after adjournment sine die of the second session of the Ninety-first Congress; or (2) October 15, 1970. Notwithstanding any other provision hereof the referendum with respect to the national marketing quota for wheat for the marketing year beginning July 1, 1971, may be conducted not later than thirty days after adjournment sine die of the second session of the Ninety-first Congress. Notwithstanding any other provision hereof the referendum with respect to the national marketing quota for wheat for the marketing year beginning July 1, 1974, may be conducted not later than the earlier of the following: (1) thirty days after adjournment sine die of the first session of the Ninety-third Congress; or (2) October 15, 1973. (As amended July 10, 1973, Pub. L. 93–68, 87 Stat. 161.)

AMENDMENTS

1973—Pub. L. 93–68 extended the time within which the Secretary of Agriculture is required to conduct a referendum with respect to the 1974 crop of wheat, if marketing quotas are to be in effect for that crop, to the earlier of thirty days after adjournment of the first session of the Ninety-third Congress or Oct. 15, 1973.

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS OF WHEAT

Pub. L. 91–524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to the 1971 through 1977 crops of wheat.

§ 1338. Transfer of quotas.

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS OF WHEAT

Pub. L. 91–524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to the 1971 through 1977 crops of wheat.

§ 1339. Land use.

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS OF WHEAT

Pub. L. 91–524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to the 1971 through 1977 crops of wheat.

§ 1339c. Feed grains diversion programs for 1964 and subsequent years; feed grain acreage considered wheat acreage and wheat acreage considered feed grain acreage.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1444b of this title.

PART IV.—MARKETING QUOTAS—COTTON

§ 1342. National marketing quota; proclamation; amount; date of proclamation.

INAPPLICABILITY TO UPLAND COTTON OF THE 1971 THROUGH 1977 CROPS

Pub. L. 91–524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93–86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided in part this section shall not be applicable to upland cotton of the 1971 through 1977 crops.

§ 1342a. National cotton production goal.

The Secretary shall, not later than November 15, of the calendar years 1970 through 1976 proclaim a national cotton production goal for the 1971 and subsequent crops of upland cotton. The national cotton production goal for any year shall be the number of bales of upland cotton (standard bales of four hundred and eighty pounds net weight) equal to the estimated domestic consumption and estimated exports for the marketing year beginning in the calendar year for which such national cotton production goal is proclaimed, plus an allowance of not less than 5 per centum of such estimated consumption and estimated exports for market expansion except that the Secretary shall make such adjustments in the amount of such production goal as he determines necessary after taking into consideration the estimated stocks of upland cotton in the United States (including the qualities of such stocks) and stocks in foreign countries, which would be available for the marketing year, to assure the maintenance of adequate but not excessive carryover stocks in the United States (not less than 50 per centum of the average offtake for the three preceding marketing years) to provide a continuous and stable supply of the different qualities of upland cotton needed in the United States and in foreign cotton consuming countries and, in addition, to provide an adequate reserve for purposes of national security. (As amended Aug. 10, 1973, Pub. L. 93–86, § 1(19)(B), 87 Stat. 233.)

AMENDMENTS

1973—Pub. L. 93–86 substituted "1970 through 1976" for "1970, 1971, and 1972".

§ 1343. Referendum.

INAPPLICABILITY TO UPLAND COTTON OF THE 1971 THROUGH 1977 CROPS

Pub. L. 91–524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93–86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided in part this section shall not be applicable to upland cotton of the 1971 through 1977 crops.

§ 1344. Apportionment of national acreage allotments.

INAPPLICABILITY TO UPLAND COTTON OF THE 1971 THROUGH 1977 CROPS

Pub. L. 91–524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93–86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided in part this section shall not be applicable to upland cotton of the 1971 through 1977 crops.

§ 1344b. Sale, lease, or transfer of cotton acreage allotments.

(a) Approval of temporary transfers.

Notwithstanding any other provision of law, the Secretary shall (1) permit the owner and operator of any farm for which a farm base acreage allotment is established to sell or lease all or any part of the right to all or any part of such allotment to any other owner or operator of a farm for transfer to such farm; and (2) permit the owner of a farm to transfer all or any part of such allotment to any other farm owned or controlled by him: *Provided*, That any temporary transfer of farm acreage allotment by lease or by owner approved by the county committee to take effect during the period 1966 through 1970 for a term extending beyond 1970 shall be approved pro rata on the basis of the farm base acreage allotment for the farm from which the transfer is made, but no temporary transfer by lease entered into after March 15, 1970, shall be approved for 1978 and subsequent crops.

* * * * *

(As amended Aug. 10, 1973, Pub. L. 93–86, § 1(19)(C), (D), 87 Stat. 233.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–86 struck out "for which a farm base acreage allotment is established (other than pursuant to section 1350(e)(1)(A) of this title)" following "to any other owner or operator of a farm" and substituted "1978" for "1974".

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(19)(C) of Pub. L. 93–86 provided in part that the amendment by section 1(19)(C) of Pub. L. 93–86, which struck out provisions requiring that transferee farms be farms for which base acreage allotments were established, shall be effective beginning with the 1974 crop.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 601(3) of Pub. L. 91–524, as amended by section 1(19)(A) of Pub. L. 93–86, provided in part that the amendment by Pub. L. 91–524 is effective only with respect to the 1971 through 1977 crops.

INAPPLICABILITY TO UPLAND COTTON OF THE 1971 THROUGH 1977 CROPS; TRANSFERS TO FARMS OUTSIDE COUNTY

Section 601(3) (2) of Pub. L. 91–524, as amended by section 1(19)(A) of Pub. L. 93–86, provided that: "Subdivisions (ii), (iv), (v), and (vi) of subsection (b) [of this section], the last sentence of subsection (b) [of this section] and subsections (e) and (h) [of this section] shall not be applicable to the 1971 through 1977 crops: *Provided*, That no farm allotment may be sold or leased for transfer to a farm in another county unless the Agricultural Stabilization and Conservation Committee established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended [section 590h(b) of Title 16], for the county from which such transfers are being made (1) finds that a demand for such acreage allotments no longer exists in such county and (2) approves any transfers of allotments to farms outside such county."

§ 1345. Farm marketing quotas; farm marketing excess.

INAPPLICABILITY TO UPLAND COTTON OF THE 1971 THROUGH 1977 CROPS

Pub. L. 91–524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93–86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided in part this section shall not be applicable to upland cotton of the 1971 through 1977 crops.

§ 1346. Penalties.

INAPPLICABILITY TO UPLAND COTTON OF THE 1971 THROUGH 1977 CROPS

Pub. L. 91–524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93–86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided in part this section shall not be applicable to upland cotton of the 1971 through 1977 crops.

§ 1350. National base acreage allotment.

(a) Establishment.

The Secretary shall establish for each of the 1971 through 1977 crops of upland cotton a national base acreage allotment. Such national base acreage allotment shall be announced not later than November 15 of the calendar year preceding the year for which the national base acreage allotment is to be effective. The national base acreage allotment for any crop of cotton shall be the number of acres which

the Secretary determines on the basis of the expected national yield will produce an amount of cotton equal to the estimated domestic consumption of cotton (standard bales of four hundred and eighty pounds net weight) for the marketing year beginning in the year in which the crop is to be produced, plus not to exceed 25 per centum thereof if the Secretary, taking into consideration other actions he may take under the Agricultural Act of 1970, determines that such additional amount is necessary to provide for a production which will equal the national cotton production goal, except that such national base acreage allotment shall be eleven million five hundred thousand acres for the 1971 crop and in the case of the 1972 through 1977 crops shall be in such amount as the Secretary determines necessary to maintain adequate supplies. The national base acreage allotment for the 1974 through 1977 crops shall not be less than eleven million acres.

* * * * *

(e) Apportionment to farms.

* * * * *

(2) If for any crop the total acreage of cotton planted on a farm is less than the farm base acreage allotment, the farm base acreage allotment used as a base for the succeeding crop shall be reduced by the percentage by which such planted acreage was less than such farm base acreage allotment, but such reduction shall not exceed 20 per centum of the farm base acreage allotment for the preceding crop. If not less than 90 per centum of the base acreage allotment for the farm is planted to cotton, the farm shall be considered to have an acreage planted to cotton equal to 100 per centum of such allotment. For purposes of this paragraph, an acreage on the farm which the Secretary determines was not planted to cotton because of drought, flood, other natural disaster, or a condition beyond the control of the producer shall be considered to be an acreage planted to cotton. For the purpose of this paragraph, the Secretary shall, in the event producers of wheat or feed grains are permitted to do so, permit producers of cotton to have acreage devoted to soybeans, wheat, feed grains, guar, castor beans, triticale, oats, rye or such other crops as the Secretary may deem appropriate considered as devoted to the production of cotton to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the cotton or soybean program.

(f) Surrender of farm base acreage allotments.

Effective for the 1971 through 1977 crops, any part of any farm base acreage allotment on which upland cotton will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the farm base acreage allotment for such farm and may be reapportioned by the county committee to other farms in the same county receiving farm base acreage allotments in amounts determined by the county committee to be fair and reasonable on the basis of past acreage of upland cotton, land, labor, equipment available for the production of upland cotton, crop rotation practices, and soil and other physical facilities affecting the production of upland cotton. If all of the acreage voluntarily surrendered is not needed in the county, the county committee may surrender the excess acreage to the State committee to be used to make adjustments in farm base acreage allotments for other farms in the State adversely affected by abnormal conditions affecting plantings or to correct inequities or to prevent hardship. Any farm base acreage allotment released under this provision shall be regarded for the purpose of establishing future farm base acreage allotments as having been planted on the farm and in the county where the release was made rather than on the farm and in the county to which the allotment was transferred: *Provided*, That, notwithstanding any other provision of law, any part of any farm base acreage allotment for any crop year may be permanently released in writing to the county committee by the owner and operator of the farm and reapportioned as provided herein. Acreage released under this subsection shall be credited to the State in determining future allotments.

* * * * *

(h) Transfer of farm base acreage allotments not planted because of natural disaster or conditions beyond control of producer.

Notwithstanding any other provision of this chapter, if the Secretary determines for any year that because of drought, flood, other natural disaster, or a condition beyond the control of the producer a portion of the farm base acreage allotment in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or a part of such cotton acreage for any farm in the county so affected to another farm in the county or in any other nearby county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of upland cotton and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm base acreage allotment transferred under this subsection shall be regarded as planted to upland cotton on the farm and in the county and State from which transfer is made for purposes of establishing future farm, county and State allotments. (As amended Aug. 10, 1973, Pub. L. 93–86, § 1(19)(A), (D)–(G), 87 Stat. 233.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–86, § 1(19)(A), (D), (E), substituted "1971 through 1977" for "1971, 1972, and 1973" and "1972 through 1977" for "1972 and 1973" and added requirement that the national base acreage allotment for the 1974 through 1977 crops shall not be less than eleven million acres.

Subsec. (e)(2). Pub. L. 93–86, § 1(19)(F), substituted "soybeans, wheat, feed grains, guar, castor beans, triticale, oats, rye or such other crops as the Secretary may deem appropriate" for "soybeans, wheat or feed grains".

Subsec. (f). Pub. L. 93–86, § 1(19)(A), substituted "1971 through 1977" for "1971, 1972, and 1973".

Subsec. (h). Pub. L. 93–86, § 1(19)(G) substituted "to another farm in the county or in any other nearby county" for "to another farm in the county or in an adjoining county".

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(19)(E) of Pub. L. 93–86 provided in part that the amendment by section 1(19)(E) of Pub. L. 93–86, setting a minimum of eleven million acres for the national base acreage allotment for the 1974 through 1977 crops, shall be effective beginning with the 1974 crop.

Section 1(19)(F) of Pub. L. 93–86 provided in part that the amendment by section 1(19)(F) of Pub. L. 93–86 shall be effective beginning with the 1974 crop.

Section 1(19)(G) of Pub. L. 93–86 provided in part that the amendment by section 1(19)(G) of Pub. L. 93–86 shall be effective beginning with the 1974 crop.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1344b, 1377, 1444 of this title.

PART V.—MARKETING QUOTAS—RICE

§ 1353. Apportionment of national acreage allotment.

* * * * *

(g) Transfer of allotment due to natural disaster; released acreage for acreage history credits; eligibility of transferring farm for allotment during base year period.

Notwithstanding any other provision of this chapter, if the Secretary determines for 1973 that because of a natural disaster a portion of the farm rice acreage allotments in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or a part of the rice acreage allotment for any farm in the county so affected to another farm in the county or in an adjoining county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of rice and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this subsection shall be deemed to be released acreage for the purpose of acreage history credits under subsection (e) of this section and section 1377 of this title: *Provided,* That, notwithstanding the provisions of subsection (e) of this section, the transfer of any farm allotment under this subsection shall operate to make the farm from which the allotment was transferred eligible for an allotment as having rice planted thereon during the five-year base period. (As amended Apr. 27, 1973, Pub. L. 93–27, 87 Stat. 27.)

AMENDMENTS

1973—Subsec. (g). Pub. L. 93–27 added subsec. (g).

PART VI.—MARKETING QUOTAS—PEANUTS

§ 1358. National marketing quota.

* * * * *

(c) Apportionment of national acreage allotment.

(1) The national acreage allotment for 1951, less the acreage to be allotted to new farms under subsection (f) of this section, shall be apportioned among the States on the basis of the larger of the following for each State: (a) The acreage allotted to the State as its share of the 1950 national acreage allotment of two million one hundred thousand acres, or (b) the State's share of two million one hundred thousand acres apportioned to States on the basis of the average acreage harvested for nuts in each State in the five years 1945–1949: *Provided,* That any allotment so determined for any State which is less than the 1951 State allotment announced by the Secretary prior to the enactment of this chapter shall be increased to such announced allotment and the acreage required for such increases shall be in addition to the 1951 national acreage allotment and shall be considered in determining State acreage allotments in future years. For any year subsequent to 1951, the national acreage allotment for that year shall be apportioned among the States on the basis of their share of the national acreage allotment for the most recent year in which such apportionment was made.

* * * * *

(d) Farm acreage allotments.

The Secretary shall provide for the apportionment of the State acreage allotment for any State, less the acreage to be allotted to new farms under subsection (f) of this section, through local committees among farms on which peanuts were grown in any of the three years immediately preceding the year for which such allotment is determined. The State acreage allotment for 1952 and any subsequent year shall be apportioned among farms on which peanuts were produced in any one of the three calendar years immediately preceding the year for which such apportionment is made, on the basis of the following: Past acreage of peanuts, taking into consideration the acreage allotments previously established for the farm; abnormal conditions affecting acreage; land, labor, and equipment available for the production of peanuts; crop-rotation practices; and soil and other physical factors affecting the production of peanuts. Any acreage of peanuts harvested in excess of the allotted acreage for any farm for any year shall not be considered in the establishment of the allotment for the farm in succeeding years. The amount of the marketing quota for each farm shall be the actual production of the farm-acreage allotment, and no peanuts shall be marketed under the quota for any farm other than peanuts actually produced on the farm.

* * * * *

(f) New farm allotments.

Not more than 1 per centum of the State acreage allotment shall be apportioned among farms in the State on which peanuts are to be produced during the calendar year for which the allotment is made but on which peanuts were not produced during any one of the past three years, on the basis of the following: Past peanut-producing experience by the producers; land, labor, and equipment available for the production of peanuts; crop-rotation practices; and soil and other physical factors affecting the production of peanuts.

* * * * *

(As amended Aug. 3, 1971, Pub. L. 92–62, §§ 1–3, 85 Stat. 163, 164.)

AMENDMENTS

1971—Subsec. (c)(1). Pub. L. 92–62, § 1, struck out ", less the acreage to be allotted to new farms under subsection (f) of this section," following "For any year subsequent to 1951, the national acreage allotment for that year".

Subsec. (d). Pub. L. 92–62, § 2, inserted in first sentence "the" preceding "apportionment" and ", less the acreage to be allotted to new farms under subsection (f) of this section,".

Subsec. (f). Pub. L. 92–62, § 3, substituted "1 per centum of the State acreage allotment shall be apportioned among farms in the State" for "one per centum of the national acreage allotment shall be apportioned among farms".

C. ADMINISTRATIVE PROVISIONS

PART II.—ADJUSTMENT OF QUOTAS AND ENFORCEMENT

§ 1374. Measurement of farms and report of plantings; remeasurement

(a) The Secretary shall provide for ascertaining, by measurement or otherwise, the acreage of any agricultural commodity or land use on farms for which the ascertainment of such acreage is necessary to determine compliance under any program administered by the Secretary. Insofar as practicable, the acreage of the commodity and land use shall be ascertained prior to harvest, and, if any acreage so ascertained is not in compliance with the requirements of the program the Secretary, under such terms and conditions as he prescribes, may provide a reasonable time for the adjustment of the acreage of the commodity or land use to the requirements of the program. Where cotton is planted in skiprow patterns, the same rules that were in effect for the 1971 through 1973 crops for classifying the acreage planted to cotton and the area skipped shall also apply to the 1974 through 1977 crops. Where cotton is planted in skiprow patterns, the same rules that were in effect for the 1971 through 1973 crops for classifying the acreage planted to cotton and the area skipped shall also apply to the 1974 through 1977 crops.

* * * * *

(As amended Nov. 30, 1970, Pub. L. 91-524, title VI, § 612, as added Aug. 10, 1973, Pub. L. 93-86, § 1 (25), 87 Stat. 236.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 91-524, § 612, as added by Pub. L. 93-86 added provisions relating to cotton planted in skiprow patterns.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1349 of this title.

§ 1377. Preservation of unused acreage allotments.

INAPPLICABILITY TO UPLAND COTTON OF THE 1971 THROUGH 1977 CROPS

Pub. L. 91-524, title VI, § 601(1), Nov. 30, 1970, 84 Stat 1371, as amended by Pub. L. 93-86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided in part this section shall not be applicable to upland cotton of the 1971 through 1977 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1353 of this title.

§ 1378. Transfer of acreage allotments ensuing from agency acquisition of farmlands.

(a) Allotment pool.

Notwithstanding any other provision of this chapter, the allotment determined for any commodity for any land from which the owner is displaced because of acquisition of the land for any purpose, other than for the continued production of allotted crops, by any Federal, State, or other agency having the right of eminent domain shall be placed in an allotment pool and shall be available only for use in providing allotments for other farms owned by the owner so displaced. Upon application to the county committee, within three years after the date of such displacement, any owner so displaced shall be entitled to have allotments established for other farms owned by him, taking into consideration the land, labor, and equipment available on such other farms for the production of the commodity, crop-rotation practices, and the soil and other physical factors affecting the production of the commodity: *Provided*, That the acreage used to establish or increase the allotments for such farms shall be transferred from the pool and shall not exceed the allotment most recently established for the farm acquired from the applicant and placed in the pool. During the period of eligibility for the making of allotments under this section for a displaced owner, acreage allotments for the farm from which the owner was so displaced shall be established in accordance with the procedure applicable to other farms, and such allotments shall be considered to have been fully planted. After such allotment is made under this section, the proportionate part, or all, as the case may be, of the past acreage used in establishing the allotment most recently placed in the pool for the farm from which the owner was so displaced shall be transferred to and considered for the purposes of future State, county, and farm acreage allotments to have been planted on the farm to which allotment is made under this section. Except where paragraph (c) requires the transfer of allotment to another portion of the same farm, for the purpose of this section (1) that part of any farm from which the owner is so displaced and that part from which he is not so displaced shall be considered as separate farms; and (2) an owner who voluntarily relinquishes possession of the land subsequent to its acquisition by an agency having the right of eminent domain shall be considered as having been displaced because of such acquisition. The former owner of land acquired as described in this subsection shall not be considered for the purposes hereof to have been displaced from such land during any period for which such land is leased to such former owner: *Provided*, That the occupancy of the former owner under the lease follows immediately after his occupancy as owner: *And provided further*, That if a former owner has been displaced prior to April 9, 1960, and no allotment from the land owned by such former owner has been transferred from the allotment pool and such former owner leases the land formerly owned by him prior to two years from April 9, 1960, such allotment shall be retransferred from the pool to such land and the occupancy of such former owner under the lease for the purposes of this subsection shall be deemed to have begun immediately after his displacement as owner. During any year of the 3-year period the allotment from a farm may remain in the allotment pool, the displaced owner may, in accordance with regulations of the Secretary, release for one year at a time any part or all of such farm allotment to the county committee for reapportionment to other farms in the county having allotments for such commodity on the basis of the past acreage of the commodity, land, labor, equipment available for the production of the commodity, crop rotation practices, and soil and other physical facilities affecting the production of the commodity; and the allotment reapportioned shall, for purposes of establishing future farm allotments, not be regarded as planted on the farm to which the allotment was transferred.

* * * * *

(f) Burley tobacco marketing allotment and acreage as meaning marketing quota and poundage.

In applying the provisions of this section to a farm for which a tobacco marketing quota has been determined under section 1314e of this title, the words "allotment" and "acreage", wherever they appear, shall be construed to mean "marketing quota" and "poundage", respectively, as required. (As amended Apr. 14, 1971, Pub. L. 92–10, § 2, 85 Stat. 27; July 26, 1972, Pub. L. 92–354, 86 Stat. 499.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–354 struck out the alternative time limitation for filing applications to the county committee and substituted provisions describing allotments for provisions requiring the allotments to be comparable with allotments determined for other farms in the same area which are similar except for the past acreage of the commodity.

1971—Subsec. (f). Pub. L. 92–10 added subsec. (f).

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Sections 404 and 605 of Pub. L. 91–524, as amended by Pub. L. 93–86, § 1(11), (22), Aug. 10, 1973, 87 Stat. 229, 235, provided in part that the amendments by sections 404(3) and 605(1) of Pub. L. 91–524 are effective only with respect to the 1971 through 1977 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1214c of this title.

§ 1379. Reconstitution of farms.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Sections 404 and 605 of Pub. L. 91–524, as amended by Pub. L. 93–86, § 1(11), (22), Aug. 10, 1973, 87 Stat. 229, 235, provided in part that the amendments by Pub. L. 91–524 are effective only with respect to the 1971 through 1977 crops.

D. WHEAT MARKETING ALLOCATION

§ 1379b. Avoidance of excessive total supply of wheat or other commodities.

(a) Issuance of marketing certificates.

The Secretary shall provide for the issuance of wheat marketing certificates for the purpose of enabling producers on any farm for which certificates are issued to receive, in addition to the other proceeds from the sale of wheat, an amount equal to the face value of such certificates. The face value per bushel of domestic marketing certificates for the 1971, 1972, and 1973 crops of wheat shall be in such amount as, together with the national average market price received by farmers during the first five months of the marketing year for such crop, the Secretary determines will be equal to the parity price for wheat as of the beginning of the marketing year for the crop.

(b) Availability of marketing certificates.

The domestic wheat marketing certificates shall be made available for a farm on the number of bushels determined by multiplying the domestic allotment for the farm for the crop to which such certificates relate by the projected yield established for the farm with such adjustments as the Secretary determines necessary to provide a fair and equitable yield.

(c) Set-aside acreage.

(1) The Secretary shall provide for a set-aside of cropland if he determines that the total supply of wheat or other commodities will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside of cropland is in effect under this subsection (c), then as a condition of eligibility for loans, purchases, and payments authorized by section 1445a(c) of this title, the producers on a farm must set aside and devote to approved conservation uses an acreage of cropland equal to (i) such percentage of the wheat allotment for the farm as may be specified by the Secretary and will be estimated by the Secretary to result in a set-aside not in excess of thirteen and three-tenths million acres in the case of the 1971 crop; plus, if required by the Secretary, (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary. The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to wheat on the farm to a percentage of the acreage allotment. The Secretary shall permit producers to plant and graze on set-aside acreage sweet sorghum, and the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to hay and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if he determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price-support program, and will not adversely affect farm income.

(2) To assist in adjusting the acreage of commodities to desirable goals, the Secretary may make land diversion payments, in addition to the payments authorized by section 1445a(c) of this title, available to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in addition to that required to be so devoted under subsection (c)(1) of this section. The land diversion payments for a farm shall be at such rate or rates as the Secretary determines to be fair and reasonble taking into consideration the diversion undertaken by the producers and the productivity of the acreage diverted. The Secretatry shall limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

(3) The wheat program formulated under this section shall require the producer to take such measures as the Secretary may deem appropriate to protect the set-aside acreage and the additional diverted acreage from erosion, insects, weeds and rodents. Such acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may, in the case of programs for the 1974 through 1977 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe by the general public, for hunting,

trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(4) If the operator of the farm desires to participate in the program formulated under this subsection (c), he shall file his agreement to do so no later than such date as the Secretary may prescribe. Loans and purchases on wheat, payments authorized by section 1445a(c) of this title, and payments under this section shall be made available to producers on such farm only if the producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producer, terminate or modify any such agreement entered into pursuant to this subsection (c)(4) if he determines such action necessary because of an emergency created by drought or other disaster, or in order to prevent or alleviate a shortage in the supply of agricultural commodities.

(d) Sharing of payments.

The Secretary shall provide for the sharing of payments made under this section for any farm among producers on the farm on a fair and equitable basis.

(e) Noncompliance with program.

In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as he determines to be equitable in relation to the seriousness of the default.

(f) Advancements on estimated value of marketing certificates.

The Secretary shall advance to producers, as soon as practicable after July 1 of the year in which the crop is harvested, an amount equal to 75 per centum of the Secretary's estimate of the face value of certificates to be issued with respect to such crop and such advance shall be repaid through the withholding of certificates for such crop having a face value equal to such advance. If the face value of the certificates as finally determined is less than the advance, the difference shall not be required to be repaid.

(g) Regulations.

The Secretary is authorized to issue such regulations as he determines necessary to carry out the provisions of this subchapter.

(h) Representation of marketing certificates and transfers.

Marketing certificates issued under this chapter and transfers thereof shall be represented by such documents, marketing cards, records, accounts, certifications, or other statements or forms as the Secretary may prescribe.

(i) Commodity Credit Corporation.

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation. (As amended Aug. 10, 1973, Pub. L. 93–86, § 1(9), 87 Stat. 225–227.)

AMENDMENTS

1973—Subsec. (c)(1). Pub. L. 91–524, § 402(b)(B)(i)–(vi), as added by Pub. L. 93–86 substituted "payments authorized by section 1445a(c) of this title" for "certificates on wheat", "wheat allotment" for "domestic wheat allotment", "thirteeen and three-tenths million" for "13.3 million", "1971 crop; plus, if required by the Secretary, (ii) the acreage" for "1971 crop or 15 million acres in the case of the 1972 or 1973 crop, plus (ii) the acreage", "The Secretary is authorized for the 1974 through 1977 crops to limit" for "The Secretary is authorized for the 1971, 1972, and 1973 crops to limit", "such percentage of the acreage allotment" for "such percentage of the domestic wheat allotment as he determines necessary to provide an orderly transition to the program provided for under this section", "The Secretary shall permit producers to plant and graze on set-aside acreage sweet sorghum, and the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to hay and" for "Grazing shall not be permitted during any of the five principal months of the normal growing season as determined by the county committee established pursuant to section 590h(b) of Title 16 and subject to this limitation (1) the Secretary shall permit producers to plant and graze on the set-aside acreage sweet sorghum, and (2) the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to", and "flaxseed, tricate, oats, rye, or other commodity" for "flaxseed, or other commodity".

Subsec. (c)(2). Pub. L. 91–524, § 402(b)(B)(i), as added by Pub. L. 98–86 substituted "payments authorized by section 1445a(c) of this title" for "certificates authorized in subsection (b) of this section".

Subsec. (c)(3). Pub. L. 91–524, § 402(b)(B)(vii), as added by Pub. L. 93–86 added provisions authorizing the Secretary, in the case of programs for the 1974 through 1977 crops, to pay an appropriate share of the cost of practices designated to protect set-aside acreage against erosion, insects, weeds, and rodents and to devote such acreage to wildlife food plots or wildlife habitat.

Subsec. (c)(4). Pub. L. 91–524, § 402(b)(B)(i), as added by Pub. L. 93–86 substituted "payments authorized by section 1445a(c) of this title" for "marketing certificates".

Subsec. (d). Pub. L. 91–524, § 402(b)(C), as added by Pub. L. 93–86 struck out "certificates issued and of" preceding "payments made".

Subsec. (e). Pub. L. 91–524, § 402(b)(C), as added by Pub. L. 93–86 struck out references to the issuance of certificates.

Subsec. (g). Pub. L. 91–524, § 402(b)(C), as added by Pub. L. 93–86 re-enacted subsec. (g) without change.

Subsec. (i). Pub. L. 91–524, § 402(b)(C), as added by Pub. L. 93–86 re-enacted subsec. (i) without change.

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 402(b)(B) of Pub. L. 91–524, as added by section 1(9) of Pub. L. 93–86, provided in part that the amendment of subsec. (c) by section 402(b)(B)(i) to (vii) of Pub. L. 91–524, as added by section 1(9) of Pub. L. 93–86, shall be effective with respect to the 1974 through 1977 crops of wheat.

Section 402(b)(C) of Pub. L. 91–524, as added by section 1(9) of Pub. L. 93–86, provided in part that the amendment of subsecs. (d), (e), (g), and (i) by section 402(b)(C) of Pub. L. 91–524, as added by section 1(9) of Pub. L. 93–86, shall be effective for the 1974 through 1977 crops.

INAPPLICABILITY TO 1974 THROUGH 1977 WHEAT CROPS OF SUBSECS. (A), (B), (F), AND (H)

Section 402(b)(A) of Pub. L. 91–524, as added by section 1(9) of Pub. L. 93–86, provided that: "Section 379b of the Agricultural Adjustment Act of 1938 (which provides for a wheat marketing certificate program) [this section] shall not be applicable to the 1974 through 1977 crops of wheat, except as provided in paragraphs (B) and (C) of this subsection [amending subsecs. (c), (d), (e), (g), and (i) of this section and section 1379c of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1379d, 1379g, 1379l, 1445a of this title.

§ 1379c. Farm acreage allotment; apportionment; acreage adjustments; reduction of allotments.

(a) (1) The farm acreage allotment for each crop of wheat shall be determined as provided in this section. The Secretary shall proclaim the national acreage allotment not later than April 15 of each calendar year for the crop harvested in the next succeeding calendar year. Such national allotment shall be the number of acres he determines on the basis of the estimated national average yield for the crop for which the determination is being made will produce the quantity (less imports) that he estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the allotment by the amount he determines will accomplish the desired decrease or increase in carryover stocks. The national acreage allotment for any crop of wheat shall be apportioned by the Secretary among the States on the basis of the apportionment to each State of the national acreage allotment for the preceding crop (1973 national domestic allotment in the case of apportionment of the 1974 national acreage allotment) adjusted to the extent deemed necessary by the Secretary to establish a fair and equitable apportionment base for each State, taking into consideration established crop rotation practices, the estimated decrease in farm acreage allotments, and other revelant factors.

(2) The State acreage allotment for wheat, less a reserve of not to exceed 1 per centum thereof for apportionment as provided in this subsection, shall be apportioned by the Secretary among the counties in the State, on the basis of the apportionment to each such county of the wheat allotment for the preceding crop, adjusted to the extent deemed necessary by the Secretary in order to establish a fair and equitable apportionment base for each county taking into consideration established crop-rotation practices, the estimated decrease in farm allotments, and other relevant factors.

(3) The farm allotment for each crop of wheat shall be determined by apportioning the county wheat allotment among farms in the county which had a wheat allotment for the preceding crop on the basis of such allotment, adjusted to reflect established crop-rotation practices and such other factors as the Secretary determines should be considered for the purpose of establishing a fair and equitable allotment. Notwithstanding any other provision of this subsection, the farm allotment shall be adjusted downward to the extent required by subsection (b) of this section.

(4) Not to exceed 1 per centum of the State allotment for any crop may be apportioned to farms for which there was no allotment for the preceding crop on the basis of the following factors: suitability of the land for production of wheat, the past experience of the farm operator in the production of wheat, the extent to which the farm operator is dependent on income from farming for his livelihood, the production of wheat on other farms owned, operated, or controlled by the farm operator, and such other factors as the Secretary determines should be considered for the purpose of establishing fair and equitable farm allotments. No part of such reserve shall be apportioned to a farm to reflect new cropland brought into production after the date of enactment of the set-aside program for wheat.

(5) The planting on a farm of wheat of any crop for which no farm allotment was established shall not make the farm eligible for an allotment under subsection (a) (3) of this section nor shall such farm by reason of such planting be considered ineligible for an allotment under subsection (a) (4) of this section.

(6) The Secretary may make such adjustments in acreage under this chapter as he determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop rotation practices, types of soil, soil and water conservation measures, and topography, and in addition, in the case of conserving use acreages to such other factors as he deems necessary in order to establish a fair and equitable conserving use acreage for the farm.

(b) (1) If for any crop the total acreage of wheat planted on a farm is less than the farm allotment, the farm allotment used as a base for the succeeding crop shall be reduced by the percentage by which such planted acreage was less than such farm allotment, but such reduction shall not exceed 20 per centum of the farm allotment for the preceding crop. If no acreage has been planted to wheat for three consecutive crop years on any farm which has an allotment, such farm shall lose its allotment. Producers on any farm who have planted to wheat not less than 90 per centum of the allotment for the farm shall be considered to have planted an acreage equal to 100 per centum of such allotment. An acreage on the farm which the Secretary determines was not planted to wheat because of drought, flood, or other natural disaster or condition beyond the control of the producer shall be considered to be an acreage of wheat planted for harvest. For the purpose of this subsection, the Secretary may permit producers of wheat to have acreage devoted to soybeans, feed grains for which there is a set-aside program in effect, guar, castor beans, cotton, triticale, oats, rye, or such other crops as the Secretary may deem appropriate considered as devoted to the production of wheat to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the program.

(2) Notwithstanding the provisions of subsection (b) (1) of this section, no farm allotment shall be reduced or lost through failure to plant the farm allotment, if the producer elects not to receive payments for the portion of the farm allotment not planted, to which he would otherwise be entitled under the provisions of section 1445a (c) of this title. (As amended Aug. 10, 1973, Pub. L. 93–86, § 1(9), 87 Stat. 227.)

AMENDMENTS

1973—Subsec. (a) (1). Pub. L. 91–524, § 402(b) (D), as added by Pub. L. 93–86 substituted references to a farm acreage allotment for references to the farm domestic allotment wherever appearing, struck out provisions limiting the impact of the section to the 1972 and 1973 crops of wheat, substituted "estimated national average yield for the crop for which the determination is being made

will produce the quantity (less imports) that he estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the allotment by the amount he determines will accomplish the desired decrease or increase in carryover stocks" for "estimated national yield will result in marketing certificates being issued to producers participating in the program in an amount equal to the amount of wheat which he estimates will be used for food products for consumption in the United States during the marketing year for the crop (not less than 535 million bushels)" in the provisions covering the determination of the estimated national yield, and inserted "(1973 national domestic allotment in the case of apportionment of the 1974 national acreage allotment)" preceding "adjusted to the extent deemed necessary".

Subsec. (a)(2). Pub. L. 91–524, § 402(b)(D), as added by Pub. L. 93–86 struck out "domestic" preceding "acreage allotment" and preceding "wheat allotment".

Subsec. (a)(3). Pub. L. 91–524, § 402(b)(D), as added by Pub. L. 93–86 struck out "domestic" preceding "allotment" and "wheat allotment" wherever appearing and struck out provisions establishing special requirements to be met in determining the allotment for the 1971 crop of wheat.

Subsec. (a)(4). Pub. L. 91–524, § 402(b)(D), as added by Pub. L. 93–86 struck out "domestic" preceding "allotment" wherever appearing.

Subsec. (a)(5). Pub. L. 91–524, § 402(b)(D), as added by Pub. L. 93–86 struck out "domestic" preceding "allotment" wherever appearing.

Subsec. (a)(6). Pub. L. 91–524, § 402(b)(D), as added by Pub. L. 93–86 re-enacted subsec. (a)(6) without change.

Subsec. (b)(1). Pub. L. 91–524, § 402(b)(D), as added by Pub. L. 93–86 struck out "domestic" preceding "allotment" wherever appearing and inserted ", guar, castor beans, cotton, triticale, oats, rye, or such other crops as the Secretary may deem appropriate" following "feed grains for which there is a set-aside program in effect".

Subsec. (b)(2). Pub. L. 91–524, § 402(b)(D), as added by "Pub. L. 93–86 struck out "domestic" preceding "allotment" wherever appearing and substituted "payments" for "certificates" and "section 1445a(c) of this title" for "this chapter".

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 402(b)(D) of Pub. L. 91–524, as added by section 1(9) of Pub. L. 93–86, provided in part that the amendment by section 402(b)(D) of Pub. L. 91–524, as added by section 1(9) of Pub. L. 93–86, shall be effective only with respect to the 1974 through 1977 crops of wheat.

REDUCTION OF WHEAT STORED BY PRODUCERS PRIOR TO THE 1971 CROP

Section 407 of Pub. L. 91–524, as amended by section 1(14) of Pub. L. 93–86, provided that: "The amount of any wheat stored by a producer under section 379c(b) of the Agricultural Adjustment Act of 1938, as amended [subsection (b) of this section], prior to the 1971 crop of wheat may be reduced by the amount by which the actual total production of the 1971, 1972, or 1973 crop on the farm is less than the number of bushels determined by multiplying three times the domestic allotment for such crop on the farm by the yield established for the farm for the purpose of issuance of domestic marketing certificates. The provisions of such section shall continue to apply to the wheat so stored to the extent not inconsistent therewith. Notwithstanding the foregoing, the Secretary may authorize release of wheat stored by a producer under section 379c(b) of the Agricultural Adjustment Act of 1938, as amended [subsec. (b) of this section], prior to the 1971 crop, whenever he determines such release will not significantly affect market prices for wheat. As a condition of release, the Secretary may require a refund of such portion of the value of certificates received in the crop year the excess wheat was produced as he deems appropriate considering the period of time the excess wheat has been in storage and the need to provide fair and equitable treatment among all wheat program participants."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1379b, 1379d, 1379g, 1379i, 1445a of this title.

§ 1379d. Marketing restrictions.

INAPPLICABILITY TO WHEAT PROCESSED OR EXPORTED DURING THE PERIOD JULY 1, 1973 THROUGH JUNE 30, 1978

Section 403(b) of Pub. L. 91–524, as added by section 1(10) of Pub. L. 93–86, Aug. 10, 1973, 85 Stat. 228, provided in part that: "Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 [this section and sections 1379e, 1379f, 1379g, 1379h, 1379i and 1379j of this title] (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978."

§ 1379e. Assistance in purchase and sale of marketing certificates; regulations; administrative expenses; interest.

INAPPLICABILITY TO WHEAT PROCESSED OR EXPORTED DURING THE PERIOD JULY 1, 1973 THROUGH JUNE 30, 1978

Section not applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978, see section 403(b) of Pub. L. 91–524, as added by section 1(10) of Pub. L. 93–86, Aug. 10, 1973, 85 Stat. 228, set out as a note under section 1379d of this title.

§ 1379f. Conversion factors.

INAPPLICABILITY TO WHEAT PROCESSED OR EXPORTED DURING THE PERIOD JULY 1, 1973 THROUGH JUNE 30, 1978

Section not applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978, see section 403(b) of Pub. L. 91–524, as added by section 1(10) of Pub. L. 93–86, Aug. 10, 1973, 85 Stat. 228, set out as a note under section 1379d of this title.

§ 1379g. Authority to facilitate transition.

* * * * *

(c) The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the certificate program provided for under section 1379d of this title to a program under which no certificates are required. Notwithstanding any other provision of law, such authority shall include, but shall not be limited to the authority to exempt all or a portion of wheat or food products made therefrom in the channels of trade on July 1, 1973, from the marketing restrictions in subsection (b) of section 1379d of this title, or to sell certificates to persons owning such wheat or food products made therefrom at such price and under such terms and conditions as the Secretary may determine. Any such certificate shall be issued by the Commodity Credit Corporation. Nothing herein shall authorize the Secretary to require certificates on wheat processed after June 30, 1973. (As amended Nov. 30, 1970, Pub. L. 91–524, title IV, § 403(b), as added Aug. 10, 1973, Pub. L. 93–86, § 1(10), 87 Stat. 228.)

AMENDMENTS

1973—Subsec. (c). Pub. L. 91–524, § 403(c), as added by Pub. L. 93–86 added subsec. (c).

INAPPLICABILITY TO WHEAT PROCESSED OR EXPORTED DURING THE PERIOD JULY 1, 1973 THROUGH JUNE 30, 1978

Section not applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978, see section 403(b) of Pub. L. 91–524, as added by section 1(10) of Pub. L. 93–86, set out as a note under section 1379d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1379b, 1379d, 1379i of this title.

§ 1379h. Applicability of provisions to designated persons; reports and records; examinations by the Secretary.

INAPPLICABILITY TO WHEAT PROCESSED OR EXPORTED DURING THE PERIOD JULY 1, 1973 THROUGH JUNE 30, 1978

Section not applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978, see section 403(b) of Pub. L. 91–524, as added by section 1(10) of Pub. L. 93–86, Aug. 10, 1973, 85 Stat. 228, set out as a note under section 1379d of this title.

§ 1379i. Penalties.

INAPPLICABILITY TO WHEAT PROCESSED OR EXPORTED DURING THE PERIOD JULY 1, 1973 THROUGH JUNE 30, 1978

Section not applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978, see section 403(b) of Pub. L. 91–524, as added by section 1(10) of Pub. L. 93–86, Aug. 10, 1973, 85 Stat. 228, set out as a note under section 1379d of this title.

§ 1379j. Regulations.

INAPPLICABILITY TO WHEAT PROCESSED OR EXPORTED DURING THE PERIOD JULY 1, 1973 THROUGH JUNE 30, 1978

Section not applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978, see section 403(b) of Pub. L. 91–524, as added by section 1(10) of Pub. L. 93–86, Aug. 10, 1973, 85 Stat. 228, set out as a note under section 1379d of this title.

F. MISCELLANEOUS PROVISIONS AND APPROPRIATIONS

PART I.—MISCELLANEOUS

§ 1385. Finality of payments and loans; substitution of beneficiaries.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Sections 404 and 605 of Pub. L. 91–524, as amended by Pub. L. 93–86, § 1(11), (22), Aug. 10, 1973, 87 Stat. 229, 235, provided in part that the amendments by Pub. L. 91–524 are effective only with respect to the 1971 through 1977 crops.

Chapter 35A.—PRICE SUPPORT OF AGRICULTURAL COMMODITIES

SUBCHAPTER I.—GENERAL PROVISIONS

Sec.

1427a. Reserve inventories for alleviation of distress of natural disaster [New].
- (a) Establishment, maintenance and disposal by Secretary; amount and nature of reserve.
- (b) Acquisition of commodities through price support program.
- (c) Prerequisites for sale or disposition of commodities in reserve.
- (d) Additional authorization for disposition of commodities to relieve distress or for civil defense emergencies.
- (e) Sale at equivalent prices for maintenance of reserve.
- (f) Utilization of Commodity Credit Corporation and usual and customary channels, etc., of trade and commerce.
- (g) Rules and regulations.
- (h) Authorization of appropriations.

1434. Encouragement of production of crops of which United States is a net importer and for which price support programs are not in effect; authority to plan on set-aside acreage with no reduction in payment rate [New].

SUBCHAPTER II.—BASIC AGRICULTURAL COMMODITIES

1441a. Cost of production study; establishment of current national weighted average cost of production; annual revision of study; criteria for study [New].

Sec.

1444a. Corn and feed grains and cotton programs [New].
- (a) Referendum; selection of price support program under subsection (b) of this section for 1959 and subsequent crops or acreage allotments under Agricultural Adjustment Act of 1938 and price support under section 1441 of this title.
- (b) Operative status of certain provisions.
- (c) Cotton research program; reduction of upland cotton production costs; authorization of appropriations; reports to Congressional Committees.
- (d) Cotton insect eradication; Commodity Credit Corporation execution of program; utilization of technical and related services of Federal, State, and private agencies and cotton organizations; participation and cooperation of beneficiaries of any program. Enforcement against nonbeneficiaries of any program; regulation, civil penalties for separate offenses, notice and hearing, determination of amount; indemnification funds for loss of production and income from special measures; protection of allotments, acreage history, and average farm yield; payment of costs in eradication zone; reasonable and equitable share; deduction of pro rate share from cotton payment; employment of people in trade; termination of funding of program; accounting for and disposition of funds in custody of agencies. Cooperation with Government of Mexico: measures and character of cooperation, functions of Secretaries of Agriculture and State; prohibition of Commody Credit Corporation expenditures without funds from appropriations; authorization of appropriations.

1444b. Feed grains; loans and purchases; payments [New].
- (a)(1) Corn loans and purchases support levels; encouragement of exports; nonproduction of excessive stocks.
- (2) Other feed grains loans and purchases support levels; specific considerations.
- (b)(1) Crop payments; computation; rate.
- (2) National acreage allotment for feed grains: determination and proclamation; adjustment of feed grain allotment; State, county, and farm feed grain allotments: establishment and adjustment; reservation for apportionment to new feed grain farms; apportionment factors.
- (3) Feed grain allotment; reduction or loss; election of nonpayment; national pool of eliminated acres for adjustment of feed grain allotment; acreage planted to feed grains; feed grain acreage planted for harvest when subject to natural disaster or other uncontrolled condition; other acreage as feed grain acreage.
- (c)(1) Cropland set-aside; Excessive stocks; adequate carryover; conservations uses acreage; crop year feed grain acre limitation; "feed grains" for consideration of wheat as feed grain acreage; consideration of section 1339c feed grains diversion program; authorization of set-aside acreage for grazing and production of other commodities.
- (2) Land diversion payments for conservation uses acreage; rate; conservation uses acreage limitation.
- (3) Protective measures; wildlife use standards; Federal sharing of cost; additional payments for public use.

Sec.
1444b. Feed grains, loans and purchases, etc.—Con.
(4) Participation agreement of farm operators, filing; soil conserving uses acreage requirement; mutual termination of agreement for emergencies or limited supplies.
(d) Sharing of payments; fair and equitable basis.
(e) Feed grains acreage adjustments; factors affecting production; State or county adjustments without increasing State acreage; drawing from acreage pool; downward adjustments.
(f) Equitable amounts for loans, purchases, and payments in relation to seriousness of defaults in spite of noncompliance with terms and conditions of program.
(g) Repealed.
(h) Regulations.
(i) Commodity Credit Corporation execution of feed grains programs.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1305 of this title; title 43 sections 615vvv, 615bbbb, 615iiii.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 1421. Price support.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1444b of this title.

§ 1427. Sale of farm commodities; policies and rates of sale; exceptions; use of commodities to relieve distress.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 409 of Pub. L. 91–524, as amended by Pub. L. 93–86, § 1(16), Aug. 10, 1973, 87 Stat. 230, provided in part that the amendment by section 409 of Pub. L. 91–524, establishing a floor for sales of wheat and feed grains and changing the price at which purchases must be made to offset sales in the interest of the efficient conduct of the Corporation's operations, is effective only with respect to the marketing years for the 1971 through 1977 crops.

Section 603 of Pub. L. 91–524, as amended by Pub. L. 93–86, § 1(21), Aug. 10, 1973, 87 Stat. 235, provided in part that the amendment by section 603 of Pub. L. 91–524, covering the sale of upland cotton by the Corporation, is effective only with respect to the period beginning Aug. 1, 1971, and ending July 31, 1978.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 App. section 2093.

§ 1427a. Reserve inventories for alleviation of distress of natural disaster.

(a) Establishment, maintenance and disposal by Secretary; amount and nature of reserve.

Notwithstanding any other provision of law, the Secretary of Agriculture shall under the provisions of this Act establish, maintain, and dispose of a separate reserve of inventories of not to exceed 75 million bushels of wheat, feed grains, and soybeans for the purpose of alleviating distress caused by a natural disaster.

Such reserve inventories shall include such quantities of grain that the Secretary deems needed to provide for the alleviation of distress as the result of a natural disaster.

(b) Acquisition of commodities through price support program.

The Secretary shall acquire such commodities through the price support program.

(c) Prerequisites for sale or disposition of commodities in reserve.

Except when a state of emergency has been proclaimed by the President or by concurrent resolution of Congress declaring that such reserves should be disposed of, the Secretary shall not offer any commodity in the reserve for sale or disposition.

(d) Additional authorization for disposition of commodities to relieve distress or for civil defense emergencies.

The Secretary is also authorized to dispose of such commodities only for (1) use in relieving distress (a) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands and (b) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under Public Law 875, Eighty-first Congress, as amended, or (2) for use in connection with a state of civil defense emergency as proclaimed by the President or by concurrent resolution of the Congress in accordance with the provisions of the Federal Civil Defense Act of 1950, as amended.

(e) Sale at equivalent prices for maintenance of reserve.

The Secretary may sell at an equivalent price, allowing for the customary location and grade price differentials, substantially equivalent quantities in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate such reserve.

(f) Utilization of Commodity Credit Corporation and usual and customary channels, etc., of trade and commerce.

The Secretary may use the Commodity Credit Corporation to the extent feasible to fulfill the purposes of this section; and to the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce.

(g) Rules and regulations.

The Secretary may issue such rules and regulations as may be necessary to carry out the provisions of this section.

(h) Authorization of appropriations.

There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section. (Pub. L. 91–524, title VIII, § 813, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 239.)

REFERENCES IN TEXT

This Act, referred to in the text, is the Agricultural Act of 1970. For distribution of such Act in this Code, see Short Title note set out under section 1305 of this title.

Public Law 875, Eighty-first Congress, as amended, referred to in the text, repealed by Pub. L. 91–606, title III, § 302(1), Dec. 31, 1970, 84 Stat. 1759, was classified to section 1855 et seq. of Title 42, The Public Health and Welfare. The provisions are now covered by section 4401 et seq. of title 42.

The Federal Civil Defense Act of 1950, as amended, referred to in the text, is classified to sections 2251 to 2297 of Title 50, Appendix, War and National Defense.

CODIFICATION

Section comprises a part of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 and not a part of the Agricultural Act of 1949 which comprises this chapter.

§ 1428. Definitions.

For the purposes of this Act—

* * * * *

(b) A "cooperator" with respect to any basic agricultural commodity shall be a producer on whose farm the acreage planted to the commodity does not exceed the farm acreage allotment for the commodity under subchapter II of chapter 35 of this title, or in the case of price support for corn or wheat to a producer outside the commercial corn-producing or wheat-producing area, a producer who complies with conditions of eligibility prescribed by the Secretary: *Provided,* That for upland cotton a cooperator shall be a producer on whose farm the acreage planted to such cotton does not exceed the cooperator percentage, which shall be in the case of the 1966 crop, 87.5 per centum of such farm acreage allotment and, in the case of each of the 1967 through 1970 crops, such percentage, not less than 87.5 or more than 100 per centum, of such farm acreage allotment as the Secretary may specify for such crop, except that in the case of small farms (i.e. farms on which the acreage allotment is 10 acres or less, or on which the projected farm yield times the acreage allotment is 3,600 pounds or less, and the acreage allotment has not been reduced under section 1344(m) of this title) the acreage of cotton on the farm shall not be required to be reduced below the farm acreage allotment: *And provided,* That for the 1971 through 1977 crops of upland cotton a cooperator shall be a producer on a farm on which a farm base acreage allotment has been established who has set aside the acreage required under section 1444(e) of this title. For the purpose of this subsection, a producer shall not be deemed to have exceeded his farm acreage allotment unless such producer knowingly exceeded such allotment.

* * * * *

(As amended Aug. 10, 1973, Pub. L. 93–86, § 1(22), 87 Stat. 235.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93–86 substituted "1971 through 1977" for "1971, 1972, and 1973" in the proviso requiring that for such designated crops of upland cotton a cooperator shall be a producer on a farm on which a farm base acreage allotment has been established who has set aside the acreage required under section 1444(e) of this title.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Sections 408 and 607 of Pub. L. 91–524, as amended by section 1(15), (22) of Pub. L. 93–86, provided in part that the amendments by sections 408 and 607 of Pub. L. 91–524 are effective only with respect to the 1971 through 1977 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1444 of this title; title 43 sections 615nn, 615qq, 615vvv, 615bbbb, 615iiii.

§ 1431. Disposition of commodities to prevent waste; eligible recipients; barter; estimates; reprocessing and other charges.

In order to prevent the waste of commodities whether in private stocks or acquired through price-support operations by the Commodity Credit Corporation before they can be disposed of in normal domestic channels without impairment of the price-support program or sold abroad at competitive world prices, the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary of Agriculture may deem in the public interest: (1) upon application, to make such commodities available to any Federal agency for use in making payment for commodities not produced in the United States; (2) to barter or exchange such commodities for strategic or other materials as authorized by law; (3) in the case of food commodities to donate such commodities to the Bureau of Indian Affairs and to such State, Federal, or private agency or agencies as may be designated by the proper State or Federal authority and approved by the Secretary, for use in the United States in nonprofit school-lunch programs, in nonprofit summer camps for children, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served. In the case of clause (3) the Secretary shall obtain such assurance as he deems necessary that the recipients thereof will not diminish their normal expenditures for food by reason of such donation. In order to facilitate the appropriate disposal of such commodities, the Secretary may from time to time estimate and announce the quantity of such commodities which he anticipates will become available for distribution under clause (3). The Commodity Credit Corporation may pay, with respect to commodities disposed of under this section, reprocessing, packaging, transporting, handling, and other charges accruing up to the time of their delivery to a Federal agency, or to the designated State or private agency. In addition, in the case of food commodities disposed of under this section, the Commodity Credit Corporation may pay the cost of processing such commodities into a form suitable for home or institutional use, such processing to be accomplished through private trade facilities to the greatest extent possible. For the purpose of this section the terms "State" and "United States" include the District of Columbia and any Territory or possession of the United States. Dairy products acquired by the Commodity Credit Corporation through price support operations may, insofar as they can be used in the United States in nonprofit school lunch and other nonprofit child feeding programs, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served, be donated for any such use prior to any other use or disposition. No person who is eligible (or upon application would be eligible) to receive supplemental security income under sections 1381 to 1383c of Title 42 shall be eligible to participate in any program conducted under this section (other than nonprofit child feeding programs or programs under which commodities are distributed on an emergency or temporary basis and eligibility for participation therein is not based upon the income or resources of the individual or family). (As amended Oct. 30, 1972, Pub. L. 92–603, title IV, § 411(g), 86 Stat. 1492.)

AMENDMENTS

1972—Pub. L. 92–603 added provision that persons eligible to receive supplemental security income under sections 1381 to 1383c of Title 42 shall not be eligible to participate in programs conducted under this section, with certain exceptions.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 411(g) of Pub. L. 92–603 provided in part that the amendment of this section is effective Jan. 1, 1974.

Pub. L. 93–233, § 8(b)(2), Dec. 30, 1973, 87 Stat. 956, as amended by Pub. L. 93–335, § 1(b), July 8, 1974, 88 Stat. 291; Pub. L. 94–44, § 3(b), June 28, 1975, 89 Stat. 235, provided that: "The last sentence of section 416 of the act of October 31, 1949 [this section] (as added by section 411(g) of Public Law 92–603 [see 1972 Amendment Note above] shall not be effective for the 30-month period beginning January 1, 1974."

COMMODITY DISTRIBUTION PROGRAM; PURCHASE OF AGRICULTURAL COMMODITIES WITH UNEXPECTED OR AVAILABLE FUNDS; PROHIBITION ON FURNISHING COMMODITIES TO SUMMER CAMPS; PARTICIPATION IN PROGRAM OF INDIVIDUAL RECEIVING SUPPLEMENTAL SECURITY INCOME BENEFITS

Authority of Secretary to purchase and furnish agricultural commodities under commodity distribution programs and participation of individuals receiving supplemental security income benefits in such programs, see section 4 of Pub. L. 93–86, set out as a note under section 612c of this title.

ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS DURING 30-MONTH PERIOD BEGINNING JAN. 1, 1974

Individuals receiving supplemental security income benefits not to be considered members of households for any purpose of the food distribution program for families under this section for any month during the 30-month period beginning Jan. 1, 1974, if, for such month, such individual resides in a State which provides State supplementary payments of the type described in section 1382e(a) of Title 42, The Public Health and Welfare, and the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1431b, 1431c, 1446a, 1692, 1702, 1703, 1704b, 1705, 1707, 1709, 1731, 1732, 1733, 1734, 1735, 1736, 1736a, 1736b of this title; title 22 section 1922; title 42 sections 1755, 1758, 1761, 1762a, 1766, 1777, 3045f.

§ 1434. Encouragement of production of crops of which the United States is a net importer and for which price support programs are not in effect; authority to plant on set-aside acreage with no reduction in payment rate.

Notwithstanding any other provisions of this Act, the Secretary shall encourage the production of any crop of which the United States is a net importer and for which a price support program is not in effect by permitting the planting of such crop on set-aside acreage and with no reduction in the rate of payment for the commodity. (Pub. L. 91–524, title VIII, § 814, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 240.)

REFERENCES IN TEXT

This Act, referred to in the text, is the Agricultural Act of 1970. For distribution of such Act in this Code, see Short Title note set out under section 1305 of this title.

CODIFICATION

Section comprises a part of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 and not a part of the Agricultural Act of 1949 which comprises this chapter.

SUBCHAPTER II.—BASIC AGRICULTURAL COMMODITIES

§ 1441. Price support levels.

The Secretary of Agriculture (hereinafter called the "Secretary") is authorized and directed to make available through loans, purchases, or other operations, price support to cooperators for any crop of any basic agricultural commodity, if producers have not disapproved marketing quotas for such crop, at a level not in excess of 90 per centum of the parity price of the commodity nor less than the level provided in subsections (a) to (c) of this section as follows:

* * * * *

(d) Notwithstanding the foregoing provisions of this section—

* * * * *

(4) Repealed. Oct. 31, 1949, ch. 792, title I, § 104(b)(3), as added Aug. 28, 1958, Pub. L. 85–835, title II, § 201, 72 Stat. 894.

* * * * *

(Oct. 31, 1949, ch. 792, title I, §§ 101, 104(b)(3), 63 Stat. 1051; July 17, 1952, ch. 933, §§ 2, 3(1), 66 Stat. 759; Aug. 28, 1954, ch. 1041, title II, §§ 201–202, 68 Stat. 899; Apr. 25, 1957, Pub. L. 85–28, 71 Stat. 27; July 2, 1958, Pub. L. 85–497, 72 Stat. 296; Aug. 28, 1958, Pub. L. 85–835, title II, § 201, title III, § 302(a), 72 Stat. 894, 994; Feb. 20, 1960, Pub. L. 86–389, § 2, 74 Stat. 7; Aug. 11, 1968, Pub. L. 90–475, § 5, 82 Stat. 702.)

AMENDMENTS

1958—Subsec. (d)(4). Act Oct. 31, 1949, § 104(b)(3), as added Pub. L. 85–835, § 201, repealed provision for price support level for corn to cooperators outside the commercial corn-producing area at 75 per centum of the level of price support to cooperators in the commercial corn-producing area.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 104(b)(3) of act Oct. 31, 1949, as added Aug. 28, 1958, provided for repeal of subsec. (d)(4) of this section effective with the 1959 crop, to be operative as provided in section 1444a(b) of this title. See 1958 Referendum for Selection of Alternative Corn Program and Operative Status of Certain Provisions note under this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1427, 1442, 1443, 1444, 1444a, 1445 of this title.

§ 1441a. Cost of production study; establishment of current national weighted average cost of production; annual revision of study; criteria for study.

The Secretary of Agriculture, in cooperation with the land grant colleges, commodity organizations, general farm organizations, and individual farmers, shall conduct a cost of production study of the wheat, feed grain, cotton, and dairy commodities under the various production practices and establish a current national weighted average cost of production. This study shall be updated annually and shall include all typical variable costs, a return on fixed costs equal to the existing interest rates charged by the Federal Land Bank, and return for management comparable to the normal management fees charged by other comparable industries. These studies shall be based upon the size unit that requires one man to farm on a full-time basis. (Pub. L. 91–524, title VIII,

§ 808, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 237.)

CODIFICATION

Section comprises a part of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 and not a part of the Agricultural Act of 1949 which comprises this chapter.

§ 1444. Cotton price support levels.

* * * * *

(e) Price support, diversion, and cropland set-aside program for crops beginning with 1971 crop.

(1) The Secretary shall upon presentation of warehouse receipts reflecting accrued storage charges of not more than 60 days make available for the 1971 through 1977 crops of upland cotton to cooperators nonrecourse loans for a term of ten months from the first day of the month in which the loan is made at such level as will reflect the Middling one-inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States 90 per centum of the average price of American cotton in world markets for such cotton for the three-year period ending July 31 in the year in which the loan level is announced, except that if the loan rate so calculated is higher than the then current level of average world prices for American cotton of such quality, the Secretary is authorized to adjust the current calculated loan rate for cotton to 90 per centum of the then current average world price. The average world price for such cotton for such preceding three-year period shall be determined by the Secretary annually pursuant to a published regulation which shall specify the procedures and the factors to be used by the Secretary in making the world price determination. The loan level for any crop of upland cotton shall be determined and announced not later than November 1 of the calendar year preceding the marketing year for which such loan is to be effective. Notwithstanding the foregoing, if the carryover of upland cotton as of the beginning of the marketing year for any of the 1972 or 1973 crops exceeds 7.2 million bales, producers on any farm harvesting cotton of such crop from an acreage in excess of the base acreage allotment for such farm shall be entitled to loans and purchases only on an amount of the cotton of such crop produced on such farm determined by multiplying the yield used in computing payments for such farm by the base acreage allotment for such farm.

(2) Payments shall be made for each crop of cotton to the producers on each farm at a rate equal to the amount by which the higher of—

(1) the average market price received by farmers for upland cotton during the calendar year which includes the first five months of the marketing year for such crop, as determined by the Secretary, or

(2) the loan level determined under paragraph (1) for such crop

is less than the established price of 38 cents per pound in the case of the 1974 and 1975 crops, 38 cents per pound adjusted to reflect any change during the calendar year 1975 in the index of prices paid by farmers for production items, interest, taxes, and wage rates in the case of the 1976 crop, and the established price for the 1976 crop adjusted to reflect any change during the calendar year 1976 in such index in the case of the 1977 crop: *Provided,* That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of cotton for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre of cotton for the three calendar years preceding the year previous to the one for which the determination is made. If the Secretary determines that the producers on a farm are prevented from planting any portion of the allotment to cotton because of drought, flood, or other natural disaster, or condition beyond the control of the producer, the rate of payment for such portion shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. If the Secretary determines that, because of such a disaster or condition, the total quantity of cotton which the producers are able to harvest on any farm is less than 66⅔ percent of the farm base acreage allotment times the average yield established for the farm, the rate of payment for the deficiency in production below 100 percent shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. The payment rate with respect to any producer who (i) is on a small farm (that is, a farm on which the base acreage allotment is ten acres or less, or on which the yield used in making payments times the farm base acreage allotment is five thousand pounds or less, and for which the base acreage allotment has not been reduced under section 1350(f) of this title, (ii) resides on such farm, and (iii) derives his principal income from cotton produced on such farm, shall be increased by 30 per centum; but, notwithstanding paragraph (3), such increase shall be made only with respect to his share of cotton actually harvested on such farm within the quantity specified in paragraph (3).

* * * * *

(4)(A) The Secretary shall provide for a set aside of cropland if he determines that the total supply of agricultural commodities will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside of cropland is in effect under this paragraph (4), then as a condition of eligibility for loans and payments on upland cotton the producers on a farm must set aside and devote to approved conservation uses an acreage of cropland equal to (i) such percentage of the farm base acreage allotment for the farm as may be specified by the Secretary (not to exceed 28 per centum of the farm base acreage allotment), plus, if required by the Secretary, (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary. The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to upland cotton on the farm in excess of the farm base acreage allotment to a percentage of the farm base acreage allotment. The Secretary shall permit producers to plant and graze on set-aside acreage

sweet sorghum, and the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to hay and grazing or the production of guar, sesame, safflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if he determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price-support program, and will not adversely affect farm income.

* * * * *

(5) The upland cotton program formulated under this section shall require the producer to take such measures as the Secretary may deem appropriate to protect the set-aside acreage and the additional diverted acreage from erosion, insects, weeds, and rodents. Such acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may in the case of programs for the 1974 through 1977 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

* * * * *

(As amended Aug. 10, 1973, Pub. L. 93–86, § 1(20), 87 Stat. 233; Oct. 18, 1973, Pub. L. 93–125, § 1(b), 87 Stat. 450.)

AMENDMENTS

1973—Subsec. (e)(1). Pub. L. 93–86, § 1(20)(A), (B), substituted "1971 through 1977 crops of upland cotton" for "1971, 1972, and 1973 crops of upland cotton", "three-year period" for "two-year period" in two places, "except that if the loan rate so calculated is higher than the then current level of average world prices for American cotton of such quality, the Secretary is authorized to adjust the current calculated loan rate for cotton to 90 per centum of the then current average world price" for "except that to prevent the establishment of such a loan level as would adversely affect the competitive position of United States upland cotton, following one or more years of excessively high prices the Secretary shall make such adjustments as are necessary to keep United States upland cotton competitive and to retain an adequate share of the world market for such cotton", "average price of American cotton in world markets" for "acreage world price", and "any of the 1972 through 1977 crops" for "the 1972 or 1973 crop".

Subsec. (e)(2). Pub. L. 93–86, § 1(20)(C), substituted provisions setting out the formula for determining payments for each crop of cotton to the producers on each farm using, as elements of such formula, the average market price received by farmers for upland cotton during the calendar year which includes the first five months of the marketing year for such crop, as determined by the Secretary, the loan level determined under paragraph (1) for such crop, an established price of 38 cents per pound in the case of the 1974 and 1975 crops, adjusted prices in the case of the 1976 and 1977 crops, adjustment of increases to reflect changes in the national average yield per acre of cotton for the three calendar years preceding the year for which the determination is made over the national average yield per acre of cotton for the three calendar years preceding the year previous to the one for which the determination is made, and covering prevention of planting due to natural disasters and conditions for provisions authorizing payments by the Secretary to cooperators on the 1971, 1972, and 1973 crops of upland cotton, and struck out provisions directing preliminary payments to producers as soon as practicable after July 1 of the year in which the crop is harvested at a rate equal to 15 cents per pound.

Pub. L. 93–125 substituted "prevented from planting any portion" for "prevented from planting, any portion".

Subsec. (e)(4)(A). Pub. L. 93–86, § 1(20)(D), (E), (F), inserted ", if required by the Secretary," preceding "(ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary", substituted "The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to upland cotton on the farm in excess of the farm base acreage allotment to a percentage of the farm base acreage allotment" for "If the Secretary determines prior to the planting season for such crop that the carryover of upland cotton as of the beginning of the marketing year for the 1972 or 1973 crop will exceed 7.2 million bales, the Secretary is authorized for such crop to limit the acreage planted to upland cotton on the farm in excess of the farm base acreage allotment to such percentage of the farm base acreage allotment as he determines necessary to reduce the total supply to a reasonable level", deleted provision prohibiting grazing during any of the five principal months of the normal growing season as determined by the county committee established pursuant to section 590h(b) of Title 16, and added provisions authorizing the raising of hay on set-aside acreage and the production of triticale, oats, and rye.

Subsec. (e)(5). Pub. L. 93–86, § 1(20)(G), authorized the Secretary in the case of programs for the 1974 through 1977 crops to pay an appropriate share of the cost of practices designed to protect set-aside acreage from erosion, insects, weeds, and rodents and to provide wildlife food plots or wildlife habitat.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(20)(C) of Pub. L. 93–86 provided in part that the amendment by section 1(20)(C) of Pub. L. 93–86 is effective beginning with the 1974 crop.

Section 1(20)(D) of Pub. L. 93–86 provided in part that the amendment by section 1(20)(D) of Pub. L. 93–86, authorizing the Secretary for the 1974 through 1977 crops to limit the acreage planted in upland cotton on the farm in excess of the farm base acreage allotment to a percentage of the farm base acreage allotment, is effective beginning with the 1974 crop.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1348, 1349, 1350, 1377, 1427, 1428, 2119 of this title.

§ 1444a. Corn and feed grains and cotton programs.

(a) Referendum; selection of price support program under subsection (b) of this section for 1959 and subsequent crops or acreage allotments under Agricultural Adjustment Act of 1938 and price support under section 1441 of this title.

Not later than December 15, 1958, the Secretary shall conduct a referendum of producers of corn in 1958 in the commercial corn-producing area for 1958 to determine whether such producers favor a price support program as provided in subsection (b) of this section for the 1959 and subsequent crops in lieu of acreage allotments as provided in the Agricultural Adjustment Act of 1938, as amended, and price support as provided in section 1441 of this title.

(b) Operative status of certain provisions.

Notwithstanding any other provision of law, if less than a majority of the producers voting in the referendum conducted pursuant to subsection (a) of this section favor a price support program as provided

in this subsection (b), the following provisions of law shall become inoperative:

(1) Amendment of Agricultural Adjustment Act of 1938.

(2) Amendment of Agricultural Act of 1949.

(3) Partial repeal of Agricultural Act of 1949.

(c) Cotton research program; reduction of upland cotton production costs; authorization of appropriations; reports to Congressional Committees.

The Secretary of Agriculture is hereby authorized and directed to conduct a special cotton research program designed to reduce the cost of producing upland cotton in the United States at the earliest practicable date. There are hereby authorized to be appropriated such sums, not to exceed $10,000,000 annually, as may be necessary for the Secretary to carry out this special research program. The Secretary shall report annually to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture and Forestry of the Senate with respect to the results of such research.

(d) Cotton insect eradication; Commodity Credit Corporation execution of program; utilization of technical and related services of Federal, State, and private agencies and cotton organizations; participation and cooperation of beneficiaries of any program.

In order to reduce cotton production costs, to prevent the movement of certain cotton plant insects to areas not now infested, and to enhance the quality of the environment, the Secretary is authorized and directed to carry out programs to destroy and eliminate cotton boll weevils in infested areas of the United States as provided herein and to carry out similar programs with respect to pink bollworms or any other major cotton insect if the Secretary determines that methods and systems have been developed to the point that success in eradication of such insects is assured. The Secretary shall carry out the eradication programs authorized by this subsection through the Commodity Credit Corporation. In carrying out insect eradication projects, the Secretary shall utilize the technical and related services of appropriate Federal, State, private agencies, and cotton organizations. Producers and landowners in an eradication zone, established by the Secretary, who are receiving benefits from any program administered by the United States Department of Agriculture, shall, as a condition of receiving or continuing any such benefits, participate in and cooperate with the eradication project, as specified in regulations of the Secretary.

Enforcement against nonbeneficiaries of any program: regulations, civil penalties for separate offenses, notice and hearing, determination of amount; indemnification funds for loss of production and income from special measures; protection of allotments, acreage history, and average farm yield; payment of costs in eradication zone; reasonable and equitable share; deduction of pro rata share from cotton payment; employment of people in trade; termination of funding of program; accounting for and disposition of funds in custody of agencies.

The Secretary may issue such regulations as he deems necessary to enforce the provisions of this subsection with respect to achieving the compliance of producers and landowners who are not receiving benefits from any program administered by the United States Department of Agriculture. Any person who knowingly violates any such regulation promulgated by the Secretary under this subsection may be assessed a civil penalty of not to exceed $5,000 for each offense. No civil penalty shall be assessed unless the person shall have been given notice and opportunity for a hearing on such charge in the county, parish, or incorporated city of the residence of the person charged. In determining the amount of the penalty the Secretary shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. Where special measures deemed essential to achievement of the eradication objective are taken by the project and result in a loss of production and income to the producer, the Secretary shall provide reasonable and equitable indemnification from funds available for the project and also provide for appropriate protection of the allotment, acreage history, and average yield for the farm. The cost of the program in each eradication zone shall be determined, and cotton producers in the zone shall be required to pay up to one-half thereof, with the exact share in each zone area to be specified by the Secretary upon his finding that such share is reasonable and equitable based on population levels of the target insect and the degree of control measures normally required. Each producer's pro rata share shall be deducted from his cotton payment under this Act or otherwise collected, as provided in regulations of the Secretary. Insofar as practicable, cotton producers and other persons engaged in cotton production in the eradication zone shall be employed to participate in the work of the project in such zone. Funding of the program shall be terminated at such time as the Secretary determines and reports to the Congress that complete eradication of the insects for which programs are undertaken pursuant to this subsection has been accomplished. Funds in custody of agencies carrying out the program shall, upon termination of such program, be accounted for to the Secretary for appropriate disposition.

Cooperation with Government of Mexico: measures and character of cooperation, functions of Secretaries of Agriculture and State; prohibition of Commodity Credit Corporation expenditures without funds from appropriations; authorization of appropriations.

The Secretary is authorized to cooperate with the Government of Mexico in carrying out operations or measures in Mexico which he deems necessary and feasible to prevent the movement into the United States from Mexico of any insects eradicated under the provisions of this subsection. The measure and character of cooperation carried out under this subsection on the part of the United States and on the part of the Government of Mexico, including the expenditure or use of funds made available by the Secretary under this subsection, shall be such as may be prescribed by the Secretary. Arrangements for the cooperations authorized by this subsection shall be made through and in consultation with the Secretary of State. The Commodity Credit Corporation shall not make any expenditures for carrying out

the purposes of this subsection unless the Corporation has received funds to cover such expenditures from appropriations made to carry out the purposes of this subsection. There are hereby authorized to be appropriated to the Commodity Credit Corporation such sums as the Congress may from time to time determine to be necessary to carry out the purposes of this subsection. (Oct. 31, 1949, ch. 792, title I, § 104, as added Aug. 28, 1958, Pub. L. 85–835, title II, § 201, 72 Stat. 993, and amended Apr. 11, 1964, Pub. L. 88–297, title I, § 103(a), 78 Stat. 174; Nov. 30, 1970, Pub. L. 91–524, title VI, § 611, as added Aug. 10, 1973, Pub. L. 93–86, § 1(24), 87 Stat. 235.)

REFERENCES IN TEXT

Agricultural Adjustment Act of 1938, as amended, referred to in subsec. (a), is classified to chapter 35 of this title.

This Act, referred to in subsec. (d), is classified to this chapter and sections 612c, 1301(a)(1)(B), (C), (G), (b)(1)(B), (b)(3)(B), (b)(9), (b)(10)(A), (C), (b)(16)(A), (C), former section 1302, 1322(a), sections 1328, 1343, 1344(f)(3), 1345, 1353–1356 of this title, former sections 1134c and 1134j of Title 12, Banks and Banking, and section 713a–4 of Title 15, Commerce and Trade.

CODIFICATION

Section 104(b)(1) of act Oct. 31, 1949, as added by section 201 of Pub. L. 85–835, enacted section 330 of Agricultural Adjustment Act of 1938, which is classified as section 1329a of this title.

Section 104(b)(2) of act Oct. 31, 1949, as added by section 201 of Pub. L. 85–835, enacted section 105 of Agricultural Act of 1949, which is classified as section 1444b of this title.

Section 104(b)(3) of act Oct. 31, 1949, as added by section 201 of Pub. L. 85–835, repealed section 101(d)(4) of Agricultural Act of 1949, and was executed to text in the repeal of section 1441(d)(4) of this title.

AMENDMENTS

1973—Subsec. (d). Pub. L. 91–524, § 611, as added Pub. L. 93–86, § 1(24), added subsec. (d).

1964—Subsec. (c). Pub. L. 88–297 added subsec. (c).

1958 REFERENDUM FOR SELECTION OF ALTERNATIVE CORN PROGRAM; OPERATIVE STATUS OF CERTAIN PROVISIONS

Corn producers voted for adoption of price support program as provided in subsec. (b) of this section (254,262) rather than alternative corn acreage allotment and price support program (102,907), the ballot making operative sections 1329a and 1444b and repeal of section 1441(d)(4) of this title.

§ 1444b. Feed grains; loans and purchases; payments.

Notwithstanding any other provision of law—

(a)(1) Corn loans and purchases support levels; encouragement of exports; nonproduction of excessive stocks.

The Secretary shall make available to producers loans and purchases on each crop of corn at such level, not less than $1.10 per bushel nor in excess of 90 per centum of the parity price therefor, as the Secretary determines will encourage the exportation of feed grains and not result in excessive total stocks of feed grains in the United States.

(2) Other feed grains loans and purchases support levels; specific considerations.

The Secretary shall make available to producers loans and purchases on each crop of barley, oats, and rye, respectively, at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of such commodity in relation to corn and other factors specified in section 1421(b) of this title, and on each crop of grain sorghums at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value and average transportation costs to market of grain sorghums in relation to corn.

(b)(1) Crop payments; computation; rate.

In addition, the Secretary shall make available to producers payments for each crop of corn, grain sorghums, and, if designated by the Secretary, barley, computed by multiplying (1) the payment rate, times (2) the allotment for the farm for such crop, times (3) the yield established for the farm for the preceding crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield. The payment rate for corn shall be the amount by which the higher of—

(1) the national weighted average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or

(2) the loan level determined under subsection (a) of this section for such crop

is less than the established price of $1.38 per bushel in the case of the 1974 and 1975 crops, $1.38 per bushel adjusted to reflect any change during the calendar year 1975 in the index of prices paid by farmers for production items, interest, taxes, and wage rates in the case of the 1976 crop, and the established price for the 1976 crop adjusted to reflect any change during the calendar year 1976 in such index in the case of the 1977 crop: *Provided*, That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of feed grains for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre of feed grains for the three calendar years preceding the year previous to the one for which the determination is made. The payment rate for grain sorghums and, if designated by the Secretary, barley, shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn. If the Secretary determines that the producers on a farm are prevented from planting any portion of the farm acreage allotment to feed grains or other nonconserving crop, because of drought, flood, or other natural disaster or condition beyond the control of the producer, the rate of payment on such portion shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. If the Secretary determines that, because of such a disaster or condition, the total quantity of feed grains (or of wheat, or cotton planted in lieu of the allotted crop) which the producers are able to harvest on any farm is less than 66⅔ percent of the farm acreage allotment times the yield of feed grains (or of wheat, or cotton planted in lieu of the allotted crop) established for the farm, the rate of payment for the deficiency in production below 100 percent shall be the larger of (A) the foregoing rate, or (B) one-third of the established price.

(2) National acreage allotment for feed grains: determination and proclamation; adjustment of feed grain allotment; State, county, and farm feed grain allotments: establishment and adjustment; reservation for apportionment to new feed grain farms; apportionment factors.

The Secretary shall, prior to January 1 of each calendar year, determine and proclaim for the crop produced in such calendar year a national acreage allotment for feed grains, which shall be the number of acres he determines on the basis of the estimated national average yield of the feed grains included in the program for the crop for which the determination is being made will produce the quantity (less imports) of such feed grains that he estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks of any of the feed grains are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the feed grain allotment by the amount he determines will accomplish the desired decrease or increase in carryover stocks. State, county, and farm feed grain allotments shall be established on the basis of the feed grain allotments established for the preceding crop (for 1974 on the basis of the feed grain bases established for 1973), adjusted to the extent deemed necessary to establish a fair and equitable apportionment base for each State, county, and farm. Not to exceed 1 per centum of the State feed grain allotment may be reserved for apportionment to new feed grain farms on the basis of the following factors: suitability of the land for production of feed grains, the extent to which the farm operator is dependent on income from farming for his livelihood, the production of feed grains on other farms owned, operated, or controlled by the farm operator, and such other factors as the Secretary determines should be considered for the purpose of establishing fair and equitable feed grain allotments.

(3) Feed grain allotment; reduction or loss; election of nonpayment; national pool of eliminated acres for adjustment of feed grain allotment; acreage planted to feed grains; feed grain acreage planted for harvest when subject to natural disaster or other uncontrolled condition; other acreage as feed grain acreage.

If for any crop the total acreage on a farm planted to feed grains included in the program formulated under this subsection is less than the feed grain allotment for the farm, the feed grain allotment for the farm for the succeeding crops shall be reduced by the percentage by which the planted acreage is less than the feed grain allotment for the farm, but such reduction shall not exceed 20 per centum of the feed grain allotment. If no acreage has been planted to such feed grains for three consecutive crop years on any farm which has a feed grain allotment, such farm shall lose its feed grain allotment: *Provided*, That no farm feed grain allotment shall be reduced or lost through failure to plant, if the producer elects not to receive payment for such portion of the farm feed grain allotment not planted, to which he would otherwise be entitled under the provisions of this Act. Any such acres eliminated from any farm shall be assigned to a national pool for the adjustment of feed grain allotments as provided for in subsection (e)(2) of this section. Producers on any farm who have planted to such feed grains not less than 90 per centum of the feed grain allotment shall be considered to have planted an acreage equal to 100 per centum of such allotment. An acreage on the farm which the Secretary determines was not planted to such feed grains because of drought, flood, or other natural disaster or condition beyond the control of the producer shall be considered to be an acreage of feed grains planted for harvest. For the purpose of this paragraph, the Secretary may permit producers of feed grains to have acreage devoted to soybeans, wheat, guar, castor beans, cotton, triticale, oats, rye, or such other crops as the Secretary may deem appropriate, considered as devoted to the production of such feed grains to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the program.

(c)(1) Cropland set-aside; excessive stocks; adequate carryover; conservations uses acreage; crop year feed grain acreage limitation; "feed grains" for consideration of wheat as feed grain acreage; consideration of section 1339c feed grains diversion program; authorization of set-aside acreage for grazing and production of other commodities.

The Secretary shall provide for a set-aside of cropland if he determines that the total supply of feed grains or other commodities will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices of feed grains and to meet a national emergency. If a set-aside of cropland is in effect under this subsection (c), then as a condition of eligibility for loans, purchases, and payments on corn, grain sorghums, and, if designated by the Secretary, barley, respectively, the producers on a farm must set aside and devote to approved conservation uses an acreage of cropland equal to (i) such percentage of the feed grain allotment for the farm as may be specified by the Secretary, plus, if required by the Secretary (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary. The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to feed grains on the farm to a percentage of the farm acreage allotment. If for any crop, the producer so requests for purposes of having acreage devoted to the production of wheat considered as devoted to the production of feed grains, pursuant to the provisions of section 1339c of this title, the term "feed grains" shall include oats and rye, and barley, if not designated by the Secretary as provided above. Such section 1339c of this title shall be effective in 1971 through 1977 to the same extent as it would be if a diversion program were in effect for feed grains during each of such years. The Secretary shall permit producers to plant and graze on set-aside acreage sweet sorghum, and the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to hay and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if he determines that such production is needed to provide an adequate supply, is not likely to

increase the cost of the price-support program, and will not adversely affect farm income.

(2) Land diversion payments for conservation uses acreage; rate; conservation uses acreage limitation.

To assist in adjusting the acreage of commodities to desirable goals, the Secretary may make land diversion payments, in addition to the payments authorized in subsection (b) of this section, to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in addition to that required to be so devoted under paragraph (1). The land diversion payments for a farm shall be at such rate or rates as the Secretary determines to be fair and reasonable taking into consideration the diversion undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

(3) Protective measures; wildlife use standards; Federal sharing of cost; additional payments for public use.

The feed grain program formulated under this section shall require the producer to take such measures as the Secretary may deem appropriate to protect the set-aside acreage and the additional diverted acreage from erosion, insects, weeds, and rodents. Such acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may, in the case of programs for the 1974 through 1977 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(4) Participation agreement of farm operators, filing; soil conserving uses acreage requirement; mutual termination of agreement for emergencies or limited supplies.

If the operator of the farm desires to participate in the program formulated under this section, he shall file his agreement to do so no later than such date as the Secretary may prescribe. Loans and purchases on feed grains included in the set-aside program and payments under this section shall be made available to producers on such farm only if the producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producer, terminate or modify any such agreement entered into pursuant to this paragraph if he determines such action necessary because of an emergency created by drought or other disaster, or in order to prevent or alleviate a shortage in the supply of agricultural commodities.

(d) Sharing of payments; fair and equitable basis.

The Secretary shall provide for the sharing of payments under this section among producers on the farm on a fair and equitable basis.

(e) Feed grains acreage adjustments; factors affecting production; State or county adjustments without increasing State acreage; drawing from acreage pool; downward adjustments.

(1) Repealed. Pub. L. 93–86, § 1(18)(F), formerly § 1(18)(E), Aug. 10, 1973, 87 Stat. 232, renumbered Pub. L. 93–125, § 1(d)(ii), Oct. 18, 1973, 87 Stat. 450,

(2) The Secretary may make such adjustments in acreage under this section as he determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop-rotation practices, types of soil, soil and water conservation measures, and topography, and in addition, in the case of conserving use acreages to such other factors as he deems necessary in order to establish a fair and equitable conserving use acreage for the farm. The Secretary shall, upon the request of a majority of the State committee established pursuant to section 590h(b) of Title 16, adjust the feed grain allotments for farms within any State or county in order to establish fair and equitable feed grain allotments for farms within such State or county: *Provided*, That except for acreage provided for in subsection (b)(3) of this section, adjustments made pursuant to this sentence shall not increase the total State feed grain acreage. The Secretary is authorized to draw upon the acreage pool provided for in subsection (b)(3) of this section in making such adjustments. Notwithstanding any other provision of this subsection, the feed grain allotment for the farm shall be adjusted downward to the extent required by subsection (b)(3) of this section.

(3) Repealed. Pub. L. 93–86, § 1(18)(F), formerly § 1(18)(E), Aug. 10, 1973, 87 Stat. 232, renumbered Pub. L. 93–125, §1(d)(ii), Oct. 18, 1973, 87 Stat. 450.

(f) Equitable amounts for loans, purchases, and payments in relation to seriousness of defaults in spite of noncompliance with terms and conditions of program.

In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as he determines to be equitable in relation to the seriousness of the default.

(g) Repealed. Pub. L. 93–86, §1(18)(F), formerly §1(18)(E), Aug. 10, 1973, 87 Stat. 232, renumbered Pub. L. 93–125, § 1(d)(ii), Oct. 18, 1973, 87 Stat. 450.

(h) Regulations.

The Secretary is authorized to issue such regulations as he determines necessary to carry out the provisions of this section.

(i) Commodity Credit Corporation execution of feed grains programs.

The Secretary shall carry out the program authorized by this section through the Commodity Credit

Corporation. (Oct. 31, 1949, ch. 792, title I, § 105, as added Oct. 31, 1949, ch. 792, title I, § 104(b)(2), as added Aug. 28, 1958, Pub. L. 85–835, title II, § 201, 72 Stat. 994, and amended Mar. 22, 1961, Pub. L. 87–5, § 1, 75 Stat. 6; Aug. 8, 1961, Pub. L. 87–128, title I, § 131, 75 Stat. 301; Mar. 30, 1962, Pub. L. 87–425, § 1, 76 Stat. 50; Sept. 27, 1962, Pub. L. 87–703, title III, §§ 301, 305, 76 Stat. 612, 614; May 20, 1963, Pub. L. 88–26, § 2, 77 Stat. 44; Aug. 6, 1965, Pub. L. 89–112, § 1, 79 Stat. 446; Nov. 3, 1965, Pub. L. 89–321, title III, § 301, 79 Stat. 1188; June 17, 1966, Pub. L. 89–451, § 2, 80 Stat. 202; Nov. 3, 1965, Pub. L. 89–321, title III, § 301, as amended Oct. 11, 1968, Pub. L. 90–559, § 1(1), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91–524, title V, § 501, 84 Stat. 1368; Nov. 30, 1970, Pub. L. 91–524, title V, § 501 as amended Aug. 10, 1973, Pub. L. 93–86, § 1(18), 87 Stat. 230; Aug. 10, 1973, Pub. L. 93–86, § 1(18), as amended Oct. 18, 1973, Pub. L. 93–125, § 1(d) 87 Stat. 50; Dec. 29, 1973, Pub. L. 93–228, § 1(b), 87 Stat. 944.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(3), is classified to this chapter and sections 612c, 1301(a)(1)(B), (C), (G), (b)(1)(B), (b)(3)(B), (b)(9), (b)(10)(A), (C), (b)(16)(A), (C), former sections 1302, 1322(a), sections 1328, 1343, 1344(f)(3), 1345, 1353–1356 of this title, former sections 1134c and 1134j of Title 12, Banks and Banking, and section 712a–4 of Title 15, Commerce and Trade.

AMENDMENTS

1973—Pub. L. 93–228 amended feed grains program for 1974 through 1977, as described hereunder.

Pub. L. 93–125 amended feed grain loan and purchases price support program for 1974 through 1977, as described hereunder.

Pub. L. 93–86 enacted feed grain loans and purchases price support program for 1974 through 1977, as described hereunder.

Pub. L. 91–524, § 501, as amended Pub. L. 93–86, § 1(18)(A), reenacted introductory text without change.

Subsec. (a)(1). Pub. L. 91–524, § 501, as amended Pub. L. 93–86, § 1(18)(A), increased minimum corn crop support level from $1.00 to $1.10 per bushel.

Subsec. (a)(2). Pub. L. 91–524, § 501, as amended Pub. L. 93–36, § 1(18)(A), reenacted par. (2) provisions without change.

Subsec. (b)(1). Pub. L. 91–524, § 501, as amended Pub. L. 93–86, § 1(18)(B), added par. (1). Former par. (1) related to subject matter as described in 1970 Amendment note for subsec. (b)(1) of this section.

Subsec. (b)(1) last sentence. Pub. L. 93–228 substituted "(or of wheat, or cotton planted in lieu of the allotted crop)" for "(or other nonconserving crop planted instead of feed grains)".

Subsec. (b)(2). Pub. L. 91–524, § 501, as amended Pub. L. 93–86, § 1(18)(B), added par. (2). Former par. (2) made payments with respect to a farm available on 50 per centum of the feed grain base for the farm and for computation of the payments on the basis of the yield established for the farm for the preceding crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield.

Subsec. (b)(3). Pub. L. 91–524, § 501, as amended Pub. L. 93–86, § 1(18)(B), substituted in: first sentence, "the feed grain allotment for the farm, the feed grain allotment for the farm for the succeeding crops shall be reduced by the percentage by which the planted acreage is less than the feed grain allotment for the farm, but such reduction shall not exceed 20 per centum of the feed grain allotment" for "the portion of the feed grain base for the farm on which payments are available under this subsection, the feed grain base for the farm for the succeeding crops shall be reduced by the percentage by which the planted acreage is less than such portion of the feed grain base for the farm, but such reduction shall not exceed 20 per centum of the feed grain base"; second sentence, including proviso, "feed grain allotment" for "feed grain base"; third sentence, "feed grain allotments" for "feed grain bases"; fourth sentence, "90 per centum of the feed grain allotment" for "90 per centum of the portion of the feed grain base on which payments are made available" and "100 per centum of such allotment" for "100 per centum of such portion"; and sixth sentence "effective operation of the program" for "effective operation of the feed grain or soybean program"; and authorized acreage devoted to guar, castor beans, cotton, triticale, oats, rye, or such other crops as the Secretary may deem appropriate, to be considered as feed grain acreage.

Subsec. (c)(1) second sentence. Pub. L. 93–86, § 1(18)(D), formerly § 1(18)(C [second]), renumbered by Pub. L. 93–125, § 1(d)(ii), substituted in item (i) "feed grain allotment" for "feed grain base", inserted preceding item (ii) ", if required by the Secretary", and substituted in item (ii) "soil conserving uses" for "soil-conserving uses".

Subsec. (c)(1) third sentence. Pub. L. 93–86, § 1(18)(E), formerly § 1(18)(D), renumbered by Pub. L. 93–125, § 1(d)(ii), substituted "The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to feed grains on the farm to a percentage of the farm acreage allotment." for "The Secretary is authorized for the 1971, 1972, and 1973 crops to limit the acreage planted to feed grains on the farm to such percentage of the feed grain base as he determines necessary to provide an orderly transition to the program provided for under this section."

Subsec. (c)(1) fifth sentence. Pub. L. 93–86, § 1(18)(D), formerly § 1(18)(C [second]), renumbered by Pub. L. 93–125, § 1(d)(ii), substituted "1971 through 1977" for "1971, 1972, 1973".

Subsec. (c)(1) last sentence, Pub. L. 93–86, § 1(18)(C), as amended Pub. L. 93–125, § 1(d)(i), authorized set-aside acreage to be devoted to hay and production of triticale, oats, and rye, and deleted item (1) and (2) designation of existing provisions, and former introductory text reading "Grazing shall not be permitted during any of the five principal months of the normal growing season as determined by the county committee established pursuant to section 590h(b) of Title 16, and subject to this limitation", and provided for such provisions as run-in rather than new-paragraph text.

Subsec. (c)(3). Pub. L. 93–86, § 1(18)(G), formerly § 1(18)(F), renumbered by Pub. L. 93–125, § 1(d)(ii), inserted after provision for devotion of set-aside acreage and diverted acreage to wildlife food plots or wildlife habitat the sentence "The Secretary may, in the case of programs for the 1974 through 1977 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences."

Subsec. (e)(1). Pub. L. 93–86, § 1(18)(F), formerly § 1(18)(E), renumbered by Pub. L. 93–125, § 1(d)(ii), struck out provision reading "For the purpose of this section, the feed grain base shall be the average acreage devoted on the farm to corn, grain sorghums and, if designated by the Secretary, barley in 1959 and 1960."

Subsec. (e)(2). Pub. L. 93–86, § 1(18)(F), formerly § 1(18)(E), renumbered by Pub. L. 93–125, § 1(d)(ii), substituted "farm grain allotments" for "farm grain bases" wherever appearing.

Subsec. (e)(3). Pub. L. 93–86, § 1(18)(F), formerly § 1(18)(E), renumbered by Pub. L. 93–125, § 1(d)(ii), struck out provisions respecting reservation for farms in a State for any year for apportionment to farms without 1959 and 1960 acreage, apportionment factors, prohibition against reflection of new cropland by such reserved allocation, and consideration of farm feed grain base as farm feed grain acreage for 1959 and 1960 crop years.

Subsec. (g). Pub. L. 93–86, § 1(18)(F), formerly § 1(18)(E), renumbered by Pub. L. 93–125, § 1(d)(ii), struck out provisions for preliminary payments, time and rate of payment, and reduction of preliminary payment rate.

1970—Pub. L. 91–524 enacted feed grains loans and purchases price support program for 1971, 1972, and 1973, as described hereunder.

Pub. L. 91–524 substituted as introductory text "Notwithstanding any other provision of law" for former subsec. (a) introductory text "Notwithstanding the provisions of section 1441 of this title".

Subsec. (a)(1). Pub. L. 91–524 substituted par. (1) provisions making loans and purchases available on corn crop at such level, not less than $1.00 per bushel nor in

excess of 90 per centum of the parity price therefor, as the Secretary determines will encourage exportation of feed grains and not result in excessive total stocks of feed grains in the United States for former subsec. (a) provisions for such corn price support level, beginning with 1964 crop, not less than 50 per centum or more than 90 per centum of the parity price therefor, as the Secretary determines will not result in increasing Commodity Credit Corporation stocks of corn, including proviso for such corn price support level, in the case of any crop for which an acreage diversion program is in effect for feed grains, not less than 65 per centum or more than 90 per centum of the parity price therefor as the Secretary determines necessary to achieve the acreage reduction goal established by him for the crop.

Subsec. (a)(2). Pub. L. 91–524 substituted par. (2) provisions making loans and purchases available on each crop of barley, oats, and rye, at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of such commodity in relation to corn and other factors specified in section 1421(b) of this title, and on each crop of grain sorghums at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value and average transportation costs to market of grain sorghums in relation to corn for former subsec. (b) provisions for such price support level on each crop of oats, rye, barley, and grain sorghums, beginning with the 1959 crop, at such level of the parity price therefor as the Secretary of Agriculture determines is fair and reasonable in relation to the level at which price support is made available for corn, taking into consideration the feeding value of such commodity in relation to corn, and the other factors set forth in section 1421(b) of this title.

Subsec. (b)(1). Pub. L. 91–524 made payments available for crops of corn, grain sorghums, and barley; prescribed as payment rate for corn such rate as, together with the national average market price received by farmers during first five months of the marketing year for the crop would not be less than (A) $1.35 per bushel, or (B) 70 per centum of the parity price of corn as of the beginning of the marketing year, whichever was the greater; prescribed as payment rate for grain sorghums and barley such rate as was fair and reasonable in relation to the rate at which payments were made available for corn; and prescribed rate of payment for 1973 crop would not be such as would result in a total amount of payments which Secretary estimated would be made pursuant to this subsection with respect to 1973 crop of feed grains above total amount of payments made pursuant to this subsection with respect to 1972 crop of feed grains by reason of level specified in clause (B) being fixed above 68 per centum of the parity price for the corn.

Subsec. (b)(2). Pub. L. 91–524 made payments with respect to a farm available on 50 per centum of the feed grain base for the farm and for computation of the payments on the basis of the yield established for the farm for the preceding crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield.

Subsec. (b)(3). Pub. L. 91–524 added par. (3).

Former subsec. (b) provided that "Beginning with the 1959 crop, price support shall be made available to producers for each crop of oats, rye, barley, and grain sorghums at such level of the parity price therefor as the Secretary of Agriculture determines is fair and reasonable in relation to the level at which price support is made available for corn, taking into consideration the feeding value of such commodity in relation to corn, and the other factors set forth in section 1421(b) of this title," and is now incorporated in subsec. (a)(2) of this section.

Subsec. (c)(1). Pub. L. 91–524 required cropland set-aside, taking into consideration excessive stocks and adequate carryover, and provided for conservation uses acreage, crop year feed grain acreage limitation, "feed grains" for consideration of wheat as feed grain acreage, consideration of section 1339c feed grains diversion program, grazing restriction, and authorization of set-aside acreage for grazing and production of other commodities.

Subsec. (c)(2). Pub. L. 91–524 provided for land diversion payments for conservation uses acreage and for conservation uses acreage limitation.

Subsec. (c)(3). Pub. L. 91–524 required protective measures and provided for wildlife use standards and additional payments for public use.

Subsec. (c)(4). Pub. L. 91–524 provided for filing of participation agreement of farm operators, soil conserving uses acreage requirement, and mutual termination of agreement because of emergencies or limited supplies.

Subsec. (d). Pub. L. 91–524 redesignated ninth sentence of former subsec. (e) as (d) and substituted "sharing of payments under this section among producers on the farm on a fair and equitable basis" for "sharing of such certificates among producers on the farm on the basis of their respective shares in the feed grain crop produced on the farm, or the proceeds therefrom, except that in any case in which the Secretary determines that such basis would not be fair and equitable, the Secretary shall provide for such sharing on such other basis as he may determine to be fair and equitable".

Subsec. (e). Pub. L. 91–524 added subsec. (e).

Subsec. (f). Pub. L. 91–524 redesignated last sentence of former subsec. (e) as (f) and substituted "under this section precludes the making of loans, purchases, and payments" and "make such loans, purchases, and payments" for "under this subsection (e) and subsection (d) of this section preclude the making of payments-in-kind" and "make such payments-in-kind".

Subsecs. (g)–(i). Pub. L. 91–524 added subsecs. (g) to (i).

1968—Pub. L. 90–559 amended feed grains price support program for 1966 through 1969, extending such program through 1970, as described hereunder.

Subsec. (e). Pub. L. 89–321, as amended Pub. L. 90–559, substituted in provision of text "1966 through 1970 crops of feed grains" reference to "1970" for "1969".

1966—Pub. L. 89–451 amended feed grains price support program for 1966 through 1969, as described hereunder.

Subsec. (e). Pub. L. 89–451 substituted in sixth sentence "planted to any other crop for which there are marketing quotas or voluntary adjustment programs in effect" for "planted to any other income-producing crop during such year".

1965—Pub. L. 89–321 enacted feed grains price support program for 1966 through 1969, as described hereunder.

Pub. L. 89–112 amended feed grains price support program for 1965, as described hereunder.

Subsec. (d). Pub. L. 89–112 added an eleventh sentence reading "An acreage on the farm which the Secretary finds was not planted to feed grains in 1965 because of flood, drought, or other natural disaster shall be deemed by the Secretary to be an actual acreage of feed grains planted on the farm for harvest for purposes of this subsection, provided such acreage is not subsequently devoted to any price supported crop for 1965."

Subsec. (e). Pub. L. 89–321, in adding subsec. (e), enacted feed grains price support program for 1966 through 1969, as described hereunder.

Subsec. (e) first sentence. Pub. L. 89–321 required as a condition of eligibility for price support for 1966 through 1969 crops of feed grains on crop of feed grains included in any acreage diversion program under section 590p(i) of Title 16, participation of producer in the diversion program to the extent prescribed by the Secretary, and as a condition of eligibility for such price support if a diversion program was not in effect for 1966 through 1969 crops, that feed grain base be not exceeded by producer, provided that acreage on farm diverted from production of feed grains pursuant to contract under Cropland Adjustment Program shall be deemed acreage diverted from production of feed grains for purposes of eligibility requirements, and excepted producer of malting barley from requirement of participation in the acreage diversion program for feed grains if such producer had previously produced a malting variety of barley, planted barley only of an acceptable malting variety for harvest, did not devote barley farm acreage in excess of 110 per centum of average acreage devoted to barley in 1959 and 1960, did not devote corn and grain sorghums farm acreage in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960, and did not devote oats

and rye acreage in 1959 and 1960 to production of wheat pursuant to section 1339c of this title.

Subsec. (e) second sentence. Pub. L. 98–321 incorporated third sentence of former subsec. (d) as second sentence of subsec. (e) and substituted "price-support" and "payments-in-kind" for "price support" and "payments in kind".

Subsec. (e) third sentence. Pub. L. 98–321 made payments-in-kind available on maximum permitted acreage and authorized the Secretary to make available the same total amount on a smaller acreage or acreages at a higher rate or rates.

Subsec. (e) fourth sentence. Pub. L. 89–321 incorporated fourth sentence of former subsec. (d) as fourth sentence of subsec. (e), substituted bushel determination provision calling for multiplication of that part of the actual acreage of such feed grain planted on the farm for harvest on which the Secretary made such payments available by the farm projected yield per acre for prior provision calling for such multiplication of actual acreage of such feed grain planted on the farm for harvest by the adjusted average yield per acre, and added proviso respecting consideration of soybean as feed grain acreage to such extent and subject to such terms and conditions as Secretary determined would not impair effective operation of price support program and proviso deeming entire feed grains acreage as so planted when 90 per centum of feed grains acreage permitted to be planted has been so planted.

Subsec. (e) fifth sentence. Pub. L. 89–321 authorized reduction of that portion of the support price which was made available through loans and purchases for the 1966 through 1969 crops below the loan level for the 1965 crop by such amounts and in such stages as might be necessary to promote increased participation in the feed grain program, taking into account increases in yields, but so as not to disrupt the feed grain and livestock economy, without modifying or affecting Secretary's discretion to maintain or increase total price support levels to cooperators.

Subsec. (e) sixth sentence. Pub. L. 89–321 incorporated eleventh sentence of former subsec. (d) as sixth sentence of subsec. (e) and substituted "planted to feed grains" for "planted to feed grains in 1965" and "deemed to be an actual acreage of feed grains planted for harvest for purposes of such payments provided such acreage is not subsequently planted to any other income-producing crop during such year" for "deemed by the Secretary to be an actual acreage of feed grains planted on the farm for harvest for purposes of this subsection, provided such acreage is not subsequently devoted to any price supported crop for 1965."

Subsec. (e) seventh sentence. Pub. L. 89–321 incorporated sixth sentence of former subsec. (d) as seventh sentence of subsec. (e).

Subsec. (e) eighth sentence. Pub. L. 89–321 incorporated seventh sentence of former subsec. (d) as eighth sentence of subsec. (e) and substituted "Payments-in-kind" for "Such payments in kind", parenthetical text "valued by the Secretary at not less than the current support price made available through loans and purchases" for "valued by the Secretary at not less than the current support price minus that part of the current support price made available through payments in kind", and "in accordance with regulations prescribed by the Secretary and notwithstanding any other provision of law" for "and, notwithstanding any other provisions of law".

Subsec. (e) ninth sentence. Pub. L. 89–321 incorporated ninth sentence of former subsec. (d) as ninth sentence of subsec. (e) and substituted "basis of their respective shares in the feed grain crop produced on the farm, or the proceeds therefrom, except that in any case in which the Secretary determines that such basis would not be fair and equitable, the Secretary shall provide for such sharing on such other basis as he may determine to be fair and equitable" for "basis of their respective shares in the crop produced on the farm with respect to which such certificates are issued, or the proceeds therefrom".

Subsec. (e) tenth sentence. Pub. L. 89–321 incorporated tenth sentence of former subsec. (d) as tenth sentence of subsec. (e) and substituted ", in accordance with the provisions of such program," for "in accordance with the provisions of such program".

Subsec. (e) eleventh sentence. Pub. L. 89–321 authorized the Secretary, where the failure of a producer to comply with the terms and conditions of the programs formulated under subsecs. (d) and (e) of this section precluded making payments-in-kind, to make such payments-in-kind in such amounts as he determined to be equitable in relation to the seriousness of the default.

1963—Pub. L. 88–26 amended feed grains support program for 1962, and enacted feed grains support program for 1964 and 1965, as described hereunder.

Subsec. (a). Pub. L. 88–26, § 2(1), added proviso for such corn price support level, in the case of any crop for which an acreage diversion program is in effect for feed grains, not less than 65 per centum or more than 90 per centum of the parity price therefor as the Secretary determines necessary to achieve the acreage reduction goal established by him for the crop.

Subsec. (d). Pub. L. 88–26, § 2(2), in adding subsec. (d), enacted feed grains support program for 1964 and 1965, as described hereunder.

Subsec. (d) first sentence. Pub. L. 88–26, § 2(2), made subsec. (d) applicable to 1964 and 1965 feed grains crops if an acreage diversion program was in effect under section 590p(h) of Title 16.

Subsec. (d) second sentence. Pub. L. 88–26, § 2(2), required as a condition of eligibility for price support on crop of feed grain included in the acreage diversion program, participation of producer in the diversion program to the extent prescribed by the Secretary, and as a condition of eligibility for such price support if a diversion program was not in effect for 1964 or 1965 crop, that feed grain base be not exceeded by producer and excepted producer of malting barley from requirement of participation in the acreage diversion program for feed grains if such producer had previously produced a malting variety of barley, planted barley only of an acceptable malting variety for harvest, did not devote barley farm acreage in excess of 110 per centum of average acreage devoted to barley in 1959 and 1960, did not devote corn and grain sorghums farm acreage in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960, and did not devote oats and rye acreage in 1959 and 1960 to production of wheat pursuant to section 1339c of this title.

Subsec. (d) third sentence. Pub. L. 88–26, § 2(2), authorized payments in kind for such portion of support price for any feed grain included in the acreage diversion program to assure that benefits of price support and diversion programs inure primarily to those producers who cooperate in feed grains acreage reductions.

Subsec. (d) fourth sentence. Pub. L. 88–26, § 2(2), provided for payments in kind on number of bushels of feed grain determined by multiplying actual acreage of feed grain planted on the farm for harvest by adjusted average yield per acre.

Subsec. (d) fifth sentence. Pub. L. 88–26, § 2(2), made base period used in determining adjusted average yield the same as used for purposes of acreage diversion program under section 590p(h) of Title 16.

Subsec. (d) sixth sentence. Pub. L. 88–26, § 2(2), authorized 50 per centum payments to producers in advance of determination of performance.

Subsec. (d) seventh sentence. Pub. L. 88–26, § 2(2), provided for payments in kind through issuance of negotiable certificates, redemption for feed grains by the CCC (such feed grains to be valued by the Secretary at not less than the current support price minus that part of the current support price made available through payments in kind, plus reasonable carrying charges), and for assistance of CCC in marketing of the certificates.

Subsec. (d) eighth sentence. Pub. L. 88–26, § 2(2), provided for deduction from value of negotiable certificates, not presented for redemption within thirty days of date of issuance, or reasonable costs of storage and other carrying charges, for the period beginning thirty days after issuance and ending with date of presentation for redemption.

Subsec. (d) ninth sentence. Pub. L. 88–26, § 2(2), required the Secretary to provide for sharing of negotiable certificates among producers on the farm on basis of respective shares in the crop produced on the farm with

respect to which such certificates were issued, or the proceeds therefrom.

Subsec. (d) tenth sentence. Pub. L. 88–26, § 2(2), conditioned availability of price support for feed grains included in acreage diversion program, where operator of farm elected to participate in the acreage diversion program, to producers on farm diverting from feed grain production under the program an acreage on the farm equal to number of acres which operator agreed to divert, and agreement so provided.

1962—Pub. L. 87–703 enacted feed grains price support program for 1963, as described hereunder.

Pub. L. 87–425 amended feed grains support program for 1962, as described hereunder.

Subsec. (a). Pub. L. 87–703, § 305, substituted provisions for such corn price support level, beginning with 1964 crop, not less than 50 per centum or more than 90 per centum of the parity price therefor, as the Secretary determines will not result in increasing Commodity Credit Corporation stocks of corn for former corn price support, beginning with 1959 crop, at 90 per centum of the average price received by farmers during the three calendar years immediately preceding the calendar year in which the marketing year for such crops began, adjusted to offset the effect on such price of any abnormal quantities of low-grade corn marketed during any of such year, provided the level of price support for any crop of corn be not less than 65 per centum of the parity price therefor.

Subsec. (c). Pub. L. 87–703, § 301, in adding subsec. (c)(5) and (6), enacted feed grains price support program for 1963, as described hereunder.

Subsec. (c)(4). Pub. L. 87–425 excepted producer of barley on a summer-fallow farm from requirement of participation in special agricultural conservation program for 1962 for barley if such producer did not devote barley farm acreage in excess of average acreage devoted to barley in 1959 and 1960 plus the acreage devoted to summer fallow in 1961 which was diverted from the production of wheat under the special 1962 wheat program and did not devote corn, grain sorghums, and barley farm acreage in excess of 80 per centum of average acreage devoted to corn, grain sorghums, and barley in 1959 and 1960.

Subsec. (c)(5). Pub. L. 87–703, § 301, required establishment of 1963 corn crop price support at such level not less than 65 per centum of parity price as Secretary might determine; provided for: payments in kind in amount of 18 cents per bushel of support price for corn, and comparable portion of support price for grain sorghums and barley; such payments on number of bushels of such feed grain determined by multiplying actual acreage of such feed grain planted on the farm for harvest in 1963 by the adjusted average yield per acre for 1959 and 1960 crop acreage of such feed grain; such payments through issuance of negotiable certificates redeemable by CCC for corn, grain sorghums, and barley (such feed grains to be valued by the Secretary at not less than support price minus that part of support price made available through payments in kind) and for CCC assistance to producer in marketing of such certificates; deduction from value of the certificate, in the case of any certificate not presented for redemption within 30 days of date of its issuance, reasonable costs of storage and other carrying charges for period beginning 30 days after its issuance and ending with the date of its presentation for redemption; and basis for sharing of such certificate among producers on the farm; and conditioned availability of price support to inclusion of prescribed acreage diversion where operator of farm elected to participate in the special agricultural conservation program for 1963, for corn, grain sorghums, and barley.

Subsec. (c)(6). Pub. L. 87–703, § 301, required as a condition of eligibility for price support on 1963 crop of corn, grain sorghums, and barley participation of producer in special agricultural conservation program for 1963 for corn, grain sorghums, and barley to the extent prescribed by the Secretary and excepted producer of malting barley from requirement of participation in special agricultural conservation program for 1963 if such producer had previously produced a malting variety of barley, planted barley only of an acceptable malting variety for harvest in 1963, and did not devote barley farm acreage in excess of 110 per centum of average acreage devoted to barley in 1959 and 1960, and did not devote corn and grain sorghums farm acreage in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960.

1961—Pub. L. 87–128 enacted feed grains price support program for 1962, as described hereunder.

Pub. L. 87–5 enacted special feed grains price support program for 1961, as described hereunder.

Subsec. (c). Pub. L. 87–128, in adding subsec. (c)(3) and (4), enacted feed grains price support program for 1962, as described hereunder.

Pub. L. 87–5, in adding subsec. (c)(1) and (2), enacted special feed grains price support program for 1961, as described hereunder.

Subsec. (c)(1). Pub. L. 87–5 required establishment of 1961 corn crop price support at such level not less than 65 per centum of parity price as Secretary might determine and made corn and grain sorghums price support available on not to exceed the normal production of 1961 acreage of corn and grain sorghums of each eligible farm based on average yield per acre for 1959 and 1960 crop acreage.

Subsec. (c)(2). Pub. L. 87–5 required as a condition of eligibility for price support on 1961 crop of corn, grain sorghums, and any other feed grain designated by the Secretary, participation of producer in special agricultural conservation program for 1961 for corn and grain sorghums to the extent prescribed by the Secretary.

Subsec. (c)(3). Pub. L. 87–128 required establishment of 1962 corn crop price support at such level not less than 65 per centum of parity price as Secretary might determine and made corn, grain sorghums, and barley price support available on not to exceed the normal production of 1962 acreage of corn, grain sorghums, and barley of each eligible farm based on average yield per acre for 1959 and 1960 crop acreage.

Subsec. (c)(4). Pub. L. 87–128 required as a condition of eligibility for price support on 1962 crop of corn and grain sorghums participation of producer in special agricultural conservation program for 1962 for corn and grain sorghums to the extent prescribed by the Secretary and prohibited farm acreage devoted to barley in excess of average acreage devoted to barley in 1959 and 1960; required as a condition of eligibility for price support on 1962 crop of barley participation of producer in special agricultural conservation program for 1962 for barley to the extent prescribed by the Secretary and prohibited farm acreage devoted to corn and grain sorghums in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960; and excepted producer of malting barley from requirement of participation in special agricultural conservation program for 1962 for barley if such producer had previously produced a malting variety of barley, planted barley only of an acceptable malting variety for harvest in 1962, and did not devote barley farm acreage in excess of 110 per centum of average acreage devoted to barley in 1959 and 1960, and did not devote corn and grain sorghums farm acreage in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960.

1958—Pub. L. 85–835 enacted corn and feed grains price support provisions, beginning with the 1959 crop as described hereunder.

Subsec. (a). Pub. L. 85–835 made corn price support available, beginning with 1959 crop, at 90 per centum of average price received by farmers during three calendar years immediately preceding calendar year in which marketing year for the crop begins, adjusted to offset effect on such price of any abnormal quantities of low-grade corn marketed during any of such year, with minimum price support level at 65 per centum of parity price for any crop of corn.

Subsec. (b). Pub. L. 85–835 made price support available, beginning with 1959 crop, for each crop of oats, rye, barley, and grain sorghums, at such level of parity price as Secretary of Agriculture determined was fair and reasonable in relation to price support level for corn, taking into consideration the feeding value of such commodity in relation to corn, and the other factors set forth in section 1421(b) of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 501 of Pub. L. 91–424, as amended by section 1(18) of Pub. L. 93–86, provided for amendment of such

section 501, amending this section, effective only with respect to the 1974 through 1977 crops of feed grains.

Section 501(a), formerly 501, of Pub. L. 91–524, renumbered and amended by section 1(18)(A) of Pub. L. 93–86 provided for amendment of subsec. (a) of this section effective only with respect to the 1971 through 1977 crops of feed grains.

Section 501(b) of Pub. L. 91–524, as added by section 1(18)(B) of Pub. L. 93–86 provided for amendment of subsec. (b) of this section effective only with respect to the 1974 through 1977 crops of feed grains.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 501 of Pub. L. 91–524 provided for amendment of section effective only with respect to the 1971, 1972, and 1973 crops of feed grains.

1958 REFERENDUM FOR SELECTION OF ALTERNATIVE CORN PROGRAM; OPERATIVE STATUS OF CERTAIN PROVISIONS

Corn producers voted for adoption of price support program as provided in section 1444a(b) of this title (254, 262) rather than alternative corn acreage allotments and price support program (102, 907), the ballot making operative sections 1329a and 1444b and repeal of section 1441(d)(4) of this title.

§ 1445. Tobacco price support levels for 1960 and subsequent years.

Notwithstanding any of the provisions of section 1441 of this title: (a) For the 1960 crop of any kind of tobacco for which marketing quotas are in effect, or for which marketing quotas are not disapproved by producers, the support level in cents per pound shall be the level at which the 1959 crop of such kind of tobacco was supported, or if marketing quotas were disapproved for the 1959 crop of such kind of tobacco, the level at which the 1959 crop of such kind of tobacco would have been supported if marketing quotas had been in effect. (b) For the 1961 crop and each subsequent crop of any kind of tobacco for which marketing quotas are in effect, or for which marketing quotas are not disapproved by producers, the support level in cents per pound shall be determined by adjusting the support level for the 1959 crop of such kind of tobacco, or if marketing quotas were disapproved for the 1959 crop of such kind of tobacco, the level at which the 1959 crop of such kind of tobacco would have been supported if marketing quotas had been in effect, by multiplying such support level for the 1959 crop by the ratio of (i) the average of the index of prices paid by farmers, including wage rates, interest, and taxes, as defined in section 1301(a)(1)(C) of this title, for the three calendar years immediately preceding the calendar year in which the marketing year begins for the crop for which the support level is being determined to (ii) the average index of such prices paid by farmers, including wage rates, interest, and taxes for the calendar year 1959. (c) If acreage poundage or poundage farm marketing quotas are in effect under seciton 1314c or 1314e of this title, (1) price support shall not be made available on tobacco marketed in excess of 110 per centum of the marketing quota (after adjustments) for the farm on which such tobacco was produced, and (2) for the purpose of price-support eligibility, tobacco carried over from one marketing year to another shall, when marketed, be considered tobacco of the then current crop. (As amended Apr. 14, 1971, Pub. L. 92–10, § 3, 85 Stat. 27.)

AMENDMENTS

1971—Subsec. (c). Pub. L. 92–10 inserted introductory reference to section 1314e of this title relating to farm poundage quotas for burley tobacco, in item (1) deleted "(120 per centum in the case of Burley tobacco for the first year for which marketing quotas are made effective under this section)" following "110 per centum" and inserted "(after adjustments)" following "marketing quota", and in item (2) deleted "to avoid marketings in excess of the farm marketing quota" following "another".

§ 1445a. Wheat price support levels.

Notwithstanding any other provision of law—

(a) Loans and purchases on each crop of wheat shall be made available at such level as the Secretary determines appropriate, taking into consideration competitive world prices of wheat, the feeding value of wheat in relation to feed grains, and the level at which price support is made available for feed grains: *Provided*, That in no event shall such level be in excess of the parity price for wheat or less than $1.37 per bushel.

(b) If a set-aside program is in effect for any crop of wheat under section 1379b(c) of this title, payments, loans and purchases shall be made available on such crop only to producers who comply with the provisions of such program.

(c) Payments shall be made for each crop of wheat to the producers on each farm in an amount determined by multiplying (i) the amount by which the higher of—

(1) the national weighted average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or

(2) the loan level determined under subsection (a) of this section for such crop

is less than the established price of $2.05 per bushel in the case of the 1974 and 1975 crops, $2.05 per bushel adjusted to reflect any change during the calendar year 1975 in the index of prices paid by farmers for production items, interest, taxes, and wage rates in the case of the 1976 crop, and the established price for the 1976 crop adjusted to reflect any change during the calendar year 1976 in such index in the case of the 1977 crop, times in each case (ii) the allotment for the farm for such crop, times (iii) the projected yield established for the farm with such adjustments as the Secretary determines necessary to provide a fair and equitable yield: *Provided*, That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of wheat for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre of wheat for the three calendar years preceding the year previous to the one for which the determination is made. If the Secretary determines that the producers are prevented from planting any portion of the farm acreage allotment to wheat or other nonconserving crop, because of drought, flood, or other natural disaster or condition beyond the control of the producer, the rate of payment on such portion shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. If the Secretary

determines that, because of such a disaster or condition, the total quantity of wheat (or of cotton, corn, grain sorghums, or barley planted in lieu of wheat) which the producers are able to harvest on any farm is less than 66⅔ percent of the farm acreage allotment times the projected yield of wheat (or of cotton, corn, grain sorghums, or barley planted in lieu of wheat) for the farm, the rate of payment for the deficiency in production below 100 percent shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. The Secretary shall provide for the sharing of payments made under this subsection for any farm among the producers on the farm on a fair and equitable basis. (As amended Aug. 10, 1973, Pub. L. 93–86, § 1(8), 87 Stat. 224; Oct. 18, 1973, Pub. L. 93–125, § 1(b), 87 Stat. 450; Dec. 29, 1973, Pub. L. 93–228, § 1(a), 87 Stat. 944.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–86, § 1(8)(A), substituted "$1.37 per bushel" for "$1.25 per bushel".

Subsec. (b). Pub. L. 93–86, § 1(8)(B), substituted "payments" for "certificates".

Subsec. (c). Pub. L. 93–228 substituted "(or of cotton, corn, grain sorghums, or barley planted in lieu of wheat)" for "(or other nonconserving crop planted instead of wheat)", in two instances.

Pub. L. 93–125 substituted "prevented from planting any portion" for "prevented from planting, any portion".

Pub. L. 93–86, § 1(8)(C), (D), added subsec. (c).

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 1(8) of Pub. L. 93–86 provided in part that the amendment by section 1(8) of Pub. L. 93–86 is effective beginning with the 1974 crop.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 401 of Pub. L. 91–524, as amended by section 1(8) of Pub. L. 93–86, provided in part that the amendment by Pub. L. 91–524 is effective only with respect to the 1971 through 1977 crops of wheat.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1379b of this title.

SUBCHAPTER III.—NONBASIC AGRICULTURAL COMMODITIES

§ 1446. Price support levels for designated nonbasic agricultural commodities.

The Secretary is authorized and directed to make available (without regard to the provisions of sections 1447 to 1449 of this title) price support to producers for tung nuts, honey, and milk as follows:

* * * * *

(b) The price of honey shall be supported through loans, purchases, or other operations at a level not in excess of 90 per centum nor less than 60 per centum of the parity price thereof; and the price of tung nuts for each crop of tung nuts through the 1976 crop shall be supported through loans, purchases, or other operations at a level not in excess of 90 per centum nor less than 60 per centum of the parity price therefor: *Provided*, That in any crop year through the 1976 crop year in which the Secretary determines that the domestic production of tung oil will be less than the anticipated domestic demand for such oil, the price of tung nuts shall be supported at not less than 65 per centum of the parity price therefor.

(c) The price of milk shall be supported at such level not in excess of 90 per centum nor less than 75 per centum of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs. Notwithstanding the foregoing, effective for the period beginning with August 10, 1973, and ending on March 31, 1975, the price of milk shall be supported at not less than 80 per centum of the parity price therefor. Such price support shall be provided through purchases of milk and the products of milk. (As amended Aug. 10, 1973, Pub. L. 93–86, § 1(3), 87 Stat. 222; Dec. 29, 1973, Pub. L. 93–225, 87 Stat. 942.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93–225 limited the tung nuts price support level provisions to tung nuts through the 1976 crop year. Prior provisions were applicable to tung nuts without any crop year restriction.

Subsec. (c). Pub. L. 93–86 inserted "of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs" following "necessary in order to assure an adequate supply" and added provision that for the period August 10, 1973, through March 31, 1975, the price of milk shall be supported at not less than 80 per centum of the parity price therefor.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(3)(B) of Pub. L. 93–86 provided in part that the amendment by section 1(3)(B) of Pub. L. 93–86 is effective April 1, 1974.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 612c, 1447 of this title.

§ 1446a. Dairy products; availability through Commodity Credit Corporation.

As a means of increasing the utilization of dairy products (including for purposes of this section, milk), upon the certification by the Administrator of Veterans' Affairs or by the Secretary of the Army, acting for the military departments under the Department of Defense's Single Service Purchase Assignment for Subsistence, or their duly authorized representatives that the usual quantities of dairy products have been purchased in the normal channels of trade—

(a) Administrator of Veteran Affairs; needs; report to Congress.

The Commodity Credit Corporation until December 31, 1977, shall make available to the Administrator of Veterans' Affairs at warehouses where dairy products are stored, such dairy products acquired under price-support programs as the Administrator certifies that he requires in order to provide butter and cheese and other dairy products as a part of the ration in hospitals under his jurisdiction. The Administrator shall report every six months to the Committees on Agriculture of the Senate and House of Representatives and the Secretary of Agriculture the amount of dairy products used under this subsection.

(b) Secretary of the Army; needs; report to Congress.

The Commodity Credit Corporation until December 31, 1977, shall make available to the Secretary

of the Army, at warehouses where dairy products are stored, such dairy products acquired under price-support programs as the Secretary of the Army or utilized in order to provide additional butter and cheese and other dairy products as a part of the ration (1) of the Army, Navy, Air Force, or Coast Guard, (2) in hospitals under the jurisdiction of the Department of Defense, and (3) of cadets and midshipmen at, and other personnel assigned to, the United States Merchant Marine Academy. The Secretary of the Army shall report every six months to the Committees on Agriculture of the Senate and the House of Representatives and the Secretary of Agriculture the amount of dairy products used under this subsection.

* * * * *

(As amended Aug. 10, 1973, Pub. L. 93–86, § 1(4), 87 Stat. 223.)

AMENDMENTS

1973—Subsecs. (a), (b). Pub. L. 93–86 extended the availability of dairy products from December 31, 1973 to December 31, 1977.

§ 1446a–1. Use of Commodity Credit Corporation funds for purchases of dairy products requirements for school and other programs.

COMMODITY DISTRIBUTION PROGRAM; PROHIBITION ON FURNISHING COMMODITIES TO SUMMER CAMPS

Prohibition on furnishing commodities under authority of this section to summer camps where number of adults participating in activities of camp exceeds one for each five children under 18 years of age participating in such activities, see section 4(b) of Pub. L. 93–86, Aug. 10, 1973, 87 Stat. 249, set out as a note under section 612c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 sections 1758, 1761, 1766, 3045f.

§ 1446d. Price support levels for cottonseed and soybeans.

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS

Pub. L. 91–524, title VI, § 608, Nov. 30, 1970, 84 Stat. 1378, as amended by Pub. L. 93–86, § 1(22), Aug. 10, 1973, 87 Stat. 235, provided that: "Section 203 of the Agricultural Act of 1949, as amended [this section] shall not be applicable to the 1971 through 1977 crops."

§§ 1447 to 1449.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 1446 of this title.

SUBCHAPTER IV—MEXICAN AGRICULTURAL WORKERS

§§ 1461 to 1468. Omitted.

CODIFICATION

Sections 1461 to 1468 of this ttile related to the recruiting of agricultural workers from Mexico and are omitted pursuant to the provisions of section 510 of act Oct. 31, 1949, as renumbered and amended, which provided that no workers would be available under such sections for employment after December 31, 1964.

Section 1461, act Oct. 31, 1949, ch. 792, title V, § 501, as added July 12, 1951, ch. 223, 65 Stat. 119, and amended Mar. 16, 1954, ch. 98, 68 Stat. 28, provided for powers, duties, and guaranties of Secretary of Labor.

Section 1462, act Oct. 31, 1949, ch. 792, title V, § 502, as added July 12, 1951, ch. 223, 65 Stat. 119, and amended Aug. 9, 1955, ch. 679, § 2, 69 Stat. 615; Oct. 3, 1961, Pub. L. 87–345, § 1, 75 Stat. 761, related to liabilities and guaranties of employers.

Section 1463, act Oct. 31, 1949, ch. 792, title V, § 503, as added July 12, 1951, ch. 223, 65 Stat. 120, and amended Aug. 9, 1955, ch. 679, § 3, 69 Stat. 615; Oct. 3, 1961, Pub. L. 87–345, § 2, 75 Stat. 761, related to certification of need for workers, consultation with employers and workers, and posting of information.

Section 1463a, act Oct. 31, 1949, ch. 792, title V, § 504, as added Oct. 3, 1961, Pub. L. 87–345, § 3, 75 Stat. 761, restricted duration and nature of employment.

Section 1464, act Oct. 31, 1949, ch. 792, title V, § 505, formerly § 504, as added July 12, 1951, ch. 223, 65 Stat. 120, and renumbered Oct. 3, 1961, Pub. L. 87–345, § 3, 75 Stat. 761, related to workers subject to immigration laws, dispensed with need of penalty bond, and provided for effect of use of "wetback" labor.

Section 1465, act Oct. 31, 1949, ch. 792, title V, § 506(c), formerly § 505(c), as added July 12, 1951, ch. 223, 65 Stat. 121, and renumbered Oct. 3, 1961, Pub. L. 87–345, § 3, 75 Stat. 761, provided for the head tax.

Section 1465a, act Oct. 31, 1949, ch. 792, title V, § 506(d), as added Oct. 3, 1961, Pub. L. 87–345, § 4, 75 Stat. 761, provided for illness or disability tax.

Section 1466, act Oct. 31, 1949, ch. 792, title V, § 507, formerly § 506, as added July 12, 1951, ch. 223, 65 Stat. 121, and renumbered Oct. 3, 1961, Pub. L. 87–345, § 3, 75 Stat. 761, related to utilization of Federal and State agencies by Secretary of Labor.

Section 1467, act Oct. 31, 1949, ch. 792, title V, § 598, formerly § 507, as added July 12, 1951, ch. 223, 65 Stat. 121, renumbered and amended Oct. 3, 1961, Pub. L. 87–345, §§ 3, 5, 75 Stat. 761, defined "agricultural employment" and "employer".

Section 1468, act Oct. 31, 1949, ch. 792, title V, § 509, formerly § 508, as added July 12, 1951, ch. 223, 65 Stat. 121, and renumbered Oct. 3, 1961, Pub. L. 87–345, § 3, 75 Stat. 761, related to importation of workers from other foreign countries.

Chapter 36.—CROP INSURANCE

Sec.
1520. Persons under twenty-one years of age [New].

§ 1507. Personnel of Corporation.

(a) Appointment; civil service exemption; compensation.

The Secretary shall appoint such officers and employees as may be necessary for the transaction of the business of the Corporation pursuant to civil-service laws and regulations, fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of Title 5, define their authority and duties, and delegate to them such of the powers vested in the Corporation as he may determine: *Provided*, That personnel paid by the hour, day, or month when actually employed, and county crop insurance committeemen may be appointed without regard to civil-service laws and regulations.

(b) Application of employees' compensation law.

Insofar as applicable, the benefits of subchapter I of chapter 81 of Title 5, shall extend to persons given employment under the provisions of this chapter, including the employees of the committees and associations referred to in subsection (c) of this section and the members of such committees.

* * * * *

(As amended June 6, 1972, Pub. L. 92–310, title II, § 221(b), 86 Stat. 205.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly section 3301 et seq. of that Title.

CODIFICATION

In subsec. (a), "chapter 51 and subchapter III of chapter 53 of Title 5" was substituted for "the Classification Act of 1949" on authority of sec. 7(b) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Provisions that authorized personnel paid by the hour, day, or month when actually employed, and county crop insurance committeemen to have their compensation fixed without regard to "the Classification Act of 1923, as amended" were omitted as obsolete. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973 repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act it did not have the effect of continuing the exceptions contained in this subsection because of section 1106(b) which provided that the application of the 1949 Act to any position, officer, or employee shall not be affected by section 1106(a). The Classification Act of 1949 was repealed by Act Sept. 6, 1966, Pub. L. 89–554, § 8(a), 80 Stat. 632 (of which section 1 revised and enacted Title 5, U.S.C., into law). Section 5102 of Title 5, now contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Civil Service Commission to determine the applicability to specific positions and employees.

In subsec. (b), reference to "subchapter I of chapter 81 of Title 5" was substituted for "the Act entitled 'An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes', approved September 7, 1916, as amended" on authority of section 7(b) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–310 eliminated provisions which empowered the Secretary to require bonds of officers and employees.

§ 1513. Books of account and annual reports of Corporation.

The Corporation shall at all times maintain complete and accurate books of accounts and shall file annually with the Secretary of Agriculture a complete report as to the business of the Corporation. (As amended Jan. 2, 1975, Pub. L. 93–604, title VI, § 603, 88 Stat. 1963.)

AMENDMENTS

1975—Pub. L. 93–604 struck out provisions that the financial transactions of the Corporation shall be audited at least once each year by the General Accounting Office for the sole purpose of making a report to Congress, together with such recommendations as the Comptroller General of the United States may deem advisable and the proviso that such report shall not be made until the Corporation shall have had reasonable opportunity to examine the exceptions and criticisms of the Comptroller General or the General Accounting Office, to point out errors therein, explain or answer the same, and to file a statement which shall be submitted by the Comptroller General with his report.

§ 1515. Advisory committee; appointment and compensation.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1520. Persons under twenty-one years of age.

Notwithstanding any other provision of law, no person shall be denied insurance under this chapter solely on the ground that he is under twenty-one years of age if such person is (1) over eighteen years of age, and (2) has a bona fide insurable interest in a crop as an owner-operator, landlord, tenant or sharecropper: *Provided*, That any such person who enters into a Federal Crop Insurance contract shall be subject to the same legal liability and have the same legal rights with respect to such contract as any person over the age of twenty-one years. (Feb. 16, 1938, ch. 30, title V, § 520, as added July 28, 1972, Pub. L. 92–357, 86 Stat. 501.)

Chapter 37.—SEEDS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2811 of this title; title 15 section 2311.

Chapter 38.—DISTRIBUTION AND MARKETING OF AGRICULTURAL PRODUCTS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 21 section 1033.

§§ 1621 to 1623.

SECTIONS REFERRED TO IN D.C. CODE

These sections are referred to in sections 31–1607, 31–1718 of the District of Columbia Code.

§ 1623a. Minimum sum for contracting.

REPEALED

Pub. L. 92–73, title V, § 506, Aug. 10, 1971, 85 Stat. 201; Pub. L. 92–399, title V, § 506, Aug. 22, 1972, 86 Stat. 611; Pub. L. 93–135, title V, § 506, Oct. 24, 1973, 87 Stat. 490; Pub. L. 93–563, title V, § 505, Dec. 31, 1974, 88 Stat. 1842; Pub. L. 94–122, title VI, § 605, Oct. 21, 1975, 89 Stat. 667.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31–1607, 31–1718 of the District of Columbia Code.

§§ 1624, 1625.

SECTIONS REFERRED TO IN D.C. CODE

These sections are referred to in sections 31–1607, 31–1718 of the District of Columbia Code.

§ 1626. Definitions.

When used in this chapter, the term "agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock and poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured product thereof, and the term "State" when used in this chapter shall include the Virgin Islands and Guam. (As amended June 23, 1972, Pub. L. 92–318, title V, § 506(f), 86 Stat. 351.)

AMENDMENTS

1972—Pub. L. 92–318 inserted definition of term "State" as including Virgin Islands and Guam.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–318 effective after June 30, 1970, see section 506(n) of Pub. L. 92–318, set out as a note under section 326a of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31–1607, 31–1718 of the District of Columbia Code.

§ 1627. Appointment of personnel; compensation; employment of specialists.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31–1607, 31–1718 of the District of Columbia Code.

§ 1628. Repealed. Pub. L. 93–86, § 2, Aug. 10, 1973, 87 Stat. 246.

Section, acts Aug. 14, 1946, ch. 966, title III, § 301, 60 Stat. 1091; Dec. 29, 1967, Pub. L. 90–233, 81 Stat. 752, provided for the establishment and staffing of a national advisory committee to aid in implementing the research and service work authorized under this chapter, sections 427 and 427i of this title and former sections 427h and 427i of this title, and set forth the functions of such committee.

§ 1629. Establishment of committees to assist in research and service programs.

REFERENCES IN TEXT

The national advisory committee, referred to in text, was established by former section 1628 of this title, which was repealed by Pub. L. 93–86, § 2, Aug. 10, 1973, 87 Stat. 246.

Chapter 41.—AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE

Sec.
1691a. World Food Conference goal; United States contribution [New].

SUBCHAPTER II.—SALE OF AGRICULTURAL COMMODITIES FOR FOREIGN CURRENCIES AND LONG-TERM-DOLLAR-CREDIT

1711. Assistance to most seriously affected countries; per capita gross national product determination from World Bank data; report to Congress [New].

SUBCHAPTER III.—FAMINE RELIEF AND OTHER ASSISTANCE AND DONATIONS OF FOOD BOTH ON A GOVERNMENT-TO-GOVERNMENT BASIS AND THROUGH VOLUNTARY ORGANIZATIONS

1726. Limitation on use of foreign currencies; reports to Congress [New].

SUBCHAPTER IV.—GENERAL PROVISIONS

1736e. Sale or donation of agricultural commodities to North Vietnam prohibited without specific Congressional authorization [New].
1736f. International food reserve system [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 13 section 301; title 15 section 713a–10, title 16 section 1537; title 22 sections 1922, 2151a, 2353, 2354, 2362, 2394, 2455.

§ 1691. Declaration of policy.

The Congress hereby declares it to be the policy of the United States to expand international trade; to develop and expand export markets for United States agricultural commodities; to use the abundant agricultural productivity of the United States to combat hunger and malnutrition and to encourage economic development in the developing countries, with particular emphasis on assistance to those countries that are determined to improve their own agricultural production; and to promote in other ways the foreign policy of the United States. In furnishing food aid under this chapter, the President shall—

(1) give priority consideration, in helping to meet urgent food needs abroad, to making available the maximum feasible volume of food commodities (with appropriate regard to domestic price and supply situations) required by those countries most seriously affected by food shortages and by inability to meet immediate food requirements on a normal commercial basis;

(2) continue to urge all traditional and potential new donors of food, fertilizer, or the means of financing these commodities to increase their participation in efforts to address the emergency and longer term food needs of the developing world;

(3) relate United States assistance to efforts by aid-receiving countries to increase their own agricultural production, with emphasis on development of small, family farm agriculture, and improve their facilities for transportation, storage, and distribution of food commodities;

(4) give special consideration to the potential for expanding markets for America's agricultural abundance abroad in the allocation of commodities or concessional financing; and

(5) give appropriate recognition to and support of a strong and viable American farm economy in providing for the food security of consumers in the United States and throughout the world.

(As amended Dec. 20, 1975, Pub. L. 94–161, title II, § 201, 89 Stat. 850.)

AMENDMENTS

1975—Pub. L. 94–161 added provisions of second sentence, including cls. (1) to (5), respecting considerations in furnishing food aid under this chapter.

SHORT TITLE

Section 1 of act July 10, 1954 provided that: "This Act [which enacted this chapter and amended sections 1427 and 1431 of this title] may be cited as the 'Agricultural Trade Development and Assistance Act of 1954'."

OFFICE OF EMERGENCY PREPAREDNESS

Functions of the Director of the Office of Emergency Preparedness under Ex. Ord. No. 10900, Jan. 6, 1961, 26 F.R. 143, as amended [set out as a note under this section], transferred to the Administrator of General Services, see section 3 of Ex. Ord. No. 11725, June 27, 1973, 38 F.R. 17175, set out as a note under section 2271 of Title 50, Appendix, War and National Defense.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Office of Management and Budget note set out under this section in the main volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701 of this title; title 10 section 2681.

§ 1691a. World Food Conference goal; United States contribution.

Pursuant to the World Food Conference recommendation that donor countries provide a total of at least ten million tons of food assistance to needy nations annually, the President is urged to maintain a significant United States contribution to this goal and to encourage other countries to maintain and increase their contributions as well. (July 10, 1954, ch. 469, § 3, as added Dec. 20, 1975, Pub. L. 94–161, title II, § 202, 89 Stat. 851.)

WORLD FOOD CONFERENCE RECOMMENDATIONS; REPORT TO CONGRESS OF EXECUTIVE IMPLEMENTATION

Section 213 of Pub. L. 94–161 provided that: "The Congress calls upon the President to strengthen the efforts of the United States to carry out the recommendations of

the World Food Conference. The President shall submit a detailed report to the Congress not later than November 1, 1976, with respect to the steps he has taken to carry out the recommendations of the World Food Conference, including steps to fulfill the commitment of the United States and to encourage other nations to increase their participation in efforts to improve the food security of the poorest portion of the world's population."

SUBCHAPTER I.—BARTER

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1736e of this title; title 10 section 2681.

SUBCHAPTER II.—SALE OF AGRICULTURAL COMMODITIES FOR FOREIGN CURRENCIES AND LONG-TERM-DOLLAR-CREDIT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1732, 1736a, 1736c, 1736e, 1743 of this title; title 10 section 2681; title 22 section 2291, 2314.

§ 1703. Agreements with friendly countries and organizations; terms and conditions.

In exercising the authorities conferred upon him by this subchapter, the President shall—

(a) Self-help measures to increase agricultural production, improve food commodity transportation, storage, and distribution facilities, and reduce population growth rate.

take into account efforts of friendly countries to help themselves toward a greater degree of self-reliance, including efforts to increase their own agricultural production, especially through small, family farm agriculture, to improve their facilities for transportation, storage, and distribution of food commodities, and to reduce their rate of population growth;

(b) Transition from sales for foreign currencies to sales for dollars.

take steps to assure a progressive transition from sales for foreign currencies to sales for dollars (or to the extent that transition to sales for dollars under the terms applicable to such sale is not possible, transition to sales for foreign currencies on credit terms no less favorable to the United States than those for development loans made under section 2161 of Title 22, and on terms which permit conversion to dollars at the exchange rate applicable to the sales agreement) at a rate whereby the transition can be completed by December 31, 1971: *Provided*, That, except where he determines that it would be inconsistent with the objectives of this chapter and sections 1427 and 1431 of this title, the President shall determine the amount of foreign currencies needed for the uses specified in subsections (a), (b), (c), (e), and (h) of section 1704 and in section 1706(b)(2) of this title, and the agreements for such credit sales shall provide for payment of such amounts in dollars or in foreign currencies upon delivery of the agricultural commodities. Such payment may be considered as an advance payment of the earliest installments;

* * * * *

(d) Sales agreements; reports to Congress; definition of "friendly country"; sales to United Arab Republic, aggressor and other unfriendly countries.

make sales agreements only with those countries which he determines to be friendly to the United States: *Provided*, That the President shall periodically review the status of those countries which are eligible under this subsection and report the results of such review to the Congress. As used in this chapter and sections 1427 and 1431 of this title, "friendly country" shall not include (1) any country or area dominated or controlled by a foreign government or organization controlling a world Communist movement, or (2) for the purpose only of sales of agricultural commodities for foreign currencies under this subchapter, any country or area dominated by a Communist government, or (3) for the purpose only of sales of agricultural commodities under this subchapter, any nation which sells or furnishes or permits ships or aircraft under its registry to transport to or from Cuba or North Vietnam (excluding United States installations in Cuba) any equipment, materials, or commodities so long as they are governed by a Communist regime: *Provided*, That this exclusion from the definition of "friendly country" may be waived by the President if he determines that such waiver is in the national interest and reports such determination to the Congress within 10 days of the date of such determination, or (4) for the purposes only of sales under this subchapter the United Arab Republic, unless the President determines that such sale is in the national interest of the United States. No sales to the United Arab Republic shall be based upon the requirements of that nation for more than one fiscal year. The President shall keep the President of the Senate and the Speaker of the House of Representatives fully and currently informed with respect to sales made to the United Arab Republic under this subchapter. Notwithstanding any other act, the President may enter into agreements for the sale of agricultural commodities for dollars on credit terms under this subchapter with countries which fall within the definition of "friendly country" for the purpose of such sales and no sales under this chapter and sections 1427 and 1431 of this title shall be made with any country if the President finds such country is (a) an aggressor, in a military sense, against any country having diplomatic relations with the United States, or (b) using funds, of any sort, from the United States for purposes inimical to the foreign policies of the United States;

* * * * *

(o) Commercial purchases of agricultural commodities; availability of commercial supplies for programs.

take steps to assure that the United States obtains a fair share of any increase in commercial purchases of agricultural commodities by the purchasing country and that commercial supplies are available to meet demands developed through programs carried out under this chapter.

* * * * *

(As amended Nov. 30, 1970, Pub. L. 91–524, title VII, § 703, as added Aug. 10, 1973, Pub. L. 93–86, § 1(26), 87 Stat. 237; Oct. 18, 1973, Pub. L. 93–125, § 1(e)(i), 87 Stat. 450; Dec. 20, 1975, Pub. L. 94–161, title II, § 203, 89 Stat. 851.)

CODIFICATION

In amendment to subsec. (o) of this section by Pub. L. 91–524 as added by Pub. L. 93–86 designation of amending provision of Pub. L. 91–524 was omitted. Pub. L. 93–125 provided for the designation of such amendment as section 703 of Pub. L. 91–524.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–161, § 203(1), substituted "efforts to increase their own agricultural production, especially through small, family farm agriculture, to improve their facilities for transportation, storage, and distribution of food commodities, and to reduce their rate of population growth" for "efforts to meet their problems of food production and population growth".

Subsec. (b). Pub. L. 94–161, § 203(2), substituted "section 1704 and in section 1706(b)(2) of this title" for "section 1704 of this title".

Subsec. (d). Pub. L. 94–161, § 203, substituted second proviso "Provided, That this exclusion from the definition of 'friendly country' may be waived by the President if he determines that such waiver is in the national interest and reports such determination to the Congress within 10 days of the date of such determination" for "Provided, That with respect to furnishing, selling, or selling and transporting to Cuba medical supplies, non-strategic raw materials for agriculture, and non-strategic agricultural or food commodities, sales agreements may be entered into if the President finds with respect to each such country, and so informs the Senate and the House of Representatives of the reasons therefor, that the making of each such agreement would be in the national interest of the United States and all such findings and reasons therefor shall be published in the Federal Register".

1973—Subsec. (o). Pub. L. 91–524, § 703, as added by Pub. L. 93–86, added provision relating to availability of commercial supplies for programs.

PRESIDENTIAL MEMORANDA FOR THE MAKING OF AN AGREEMENT WITH EGYPT

On October 23, 1975, the following memorandum was issued by the President, and was published in 40 F.R. 53223:

Pursuant to the authority vested in me under the Agricultural Trade Development and Assistance Act of 1954, as amended (hereinafter "the Act") [this chapter], I hereby:

(a) Find, pursuant to Section 103(d)(3) of the Act [subsec. (d)(3) of this section], that the making of an agreement with the Government of Egypt for the sale, under Title I of the Act [section 1701 et seq. of this title], of 500 thousand metric tons of wheat/wheat flour (wheat grain equivalent) and 4,200 metric tons of tobacco and/or tobacco products is in the national interest of the United States; and

(b) Determine, pursuant to Section 103(d)(4) of the Act [subsec. (d)(4) of this section], that the sale to Egypt of wheat/wheat flour and tobacco and/or tobacco products in furtherance of such an agreement is in the national interest of the United States.

This Determination shall be published in the Federal Register.

GERALD R. FORD.

On March 31, 1975, the following memorandum was issued by the President, and was published in 40 F.R. 18393:

Pursuant to the authority vested in me under the Agricultural Trade Development and Assistance Act of 1954, as amended (hereinafter "the Act") [this chapter], I hereby:

(a) Find, pursuant to Section 103(d)(3) of the Act [subsec. (d)(3) of this section], that the making of an agreement with the Government of Egypt for the sale, under Title I of the Act [section 1701 et seq. of this title], of 300 thousand metric tons of wheat/wheat flour (wheat grain equivalent) is in the national interest of the United States; and

(b) Determine, pursuant to Section 103(d)(4) of the Act [subsec. (d)(4) of this section], that the sale to Egypt of wheat/wheat flour in furtherance of such an agreement is in the national interest of the United States.

This Determination shall be published in the *Federal Register*.

GERALD R. FORD.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1706, 1707, 1708 of this title; title 22 sections 2103, 2314.

§ 1704. Purposes for which foreign currencies may be used.

Notwithstanding any other provision of law, the President may use or enter into agreements with foreign countries or international organizations to use the foreign currencies, including principal and interest from loan repayments, which accrue in connection with sales for foreign currencies under this subchapter for one or more of the following purposes:

* * * * *

(b) For carrying out programs of United States Government agencies to—

(1) help develop new markets for United States agricultural commodities on a mutually benefitting basis. From sale proceeds and loan repayments under this subchapter not less than the equivalent of 5 per centum of the total sales made each year under this subchapter shall be set aside in the amounts and kinds of foreign currencies specified by the Secretary of Agriculture and made available in advance for use as provided by this paragraph over such period of years as the Secretary of Agriculture determines will most effectively carry out the purpose of this paragraph: *Provided*, That the Secretary of Agriculture may release such amounts of the foreign currencies so set aside as he determines cannot be effectively used for agricultural market development purposes under this section, except that no release shall be made until the expiration of thirty days following the date on which notice of such proposed release is transmitted by the President to the Senate Committee on Agriculture and Forestry and the Senate Committee on Foreign Relations and to the House Committee on Agriculture and the House Committee on International Relations, if transmitted while Congress is in session, or sixty days following the date of transmittal if transmitted while Congress is not in session. Provision shall be made in sale and loan agreements for the convertibility of such amount of the proceeds thereof (not less than 2 per centum) as the Secretary of Agriculture determines to be needed to carry out the purpose of this paragraph in those countries which are or offer reasonable potential of becoming dollar markets for United States agricultural commodities. Such sums shall be converted into the types and kinds of foreign currencies as the Secretary deems necessary to carry out the provisions of this paragraph and such sums shall be deposited to a special Treasury account and shall not be made available or expended except for carrying out the provisions of this paragraph. Notwithstanding any other provision of law, if sufficient foreign currencies for carrying out the purpose of this paragraph in such countries are not otherwise available, the Secretary of Agriculture is authorized and

directed to enter into agreements with such countries for the sale of agricultural commodities in such amounts as the Secretary of Agriculture determines to be adequate and for the use of the proceeds to carry out the purpose of this paragraph. In carrying out agricultural market development activities, nonprofit agricultural trade organizations shall be utilized to the maximum extent practicable. The purpose of this paragraph shall include such representation of agricultural industries as may be required during the course of discussions on trade programs relating either to individual commodities or groups of commodities;

* * * * *

(c) Revealed. Pub. L. 94–161, title II, § 204(3), Dec. 20, 1975, 89 Stat. 852.

* * * * *

(k) for paying, to the maximum extent practicable, the costs of carrying out programs for the control of rodents, insects, weeds, and other animal or plant pests;

Provided, That—

* * * * *

(3) No agreement or proposal to grant any foreign currencies (except as provided in subsection (c) of this section), or to use (except pursuant to appropriation Act) any principal or interest from loan repayments under this section shall be entered into or carried out until the expiration of thirty days following the date on which such agreement or proposal is transmitted by the President to the Senate Committee on Agriculture and Forestry and the Senate Committee on Foreign Relations and to the House Committee on Agriculture and the House Committee on International Relations, if transmitted while Congress is in session, or sixty days following the date of transmittal if transmitted while Congress is not in session.

(4) Any loan made under the authority of this section shall bear interest at such rate as the President may determine but not less than the cost of funds to the United States Treasury, taking into consideration the current average market yields on outstanding marketable obligations of the United States having maturity comparable to the maturity of such loans, unless the President shall in specific instances after consultation with the advisory committee established under section 1736a of this title designate a different rate:

Provided, further, That paragraphs (2), (3), and (4) of the foregoing proviso shall not apply in the case of any nation where the foreign currencies or credits owned by the United States and available for use by it in such nation are determined by the Secretary of the Treasury to be in excess of the normal requirements of the departments and agencies of the United States for expenditures in such nations for the two fiscal years following the fiscal year in which such determination is made. The amount of any such excess shall be devoted to the extent practicable and without regard to paragraph (1) of the foregoing proviso, to the acquisition of sites, buildings, and grounds under paragraph (4) of subsection (b) of this section and to assist such nation in undertaking self-help measures to increase its production of agricultural commodities and its facilities for storage and distribution of such commodities. Assistance under the foregoing provision shall be limited to self-help measures additional to those which would be undertaken without such assistance. Upon the determination by the Secretary of the Treasury that such an excess exists with respect to any nation, the President shall advise the Senate Committee on Agriculture and Forestry and the Senate Committee on Foreign Relations and the House Committee on Agriculture and the House Committee on International Relations of such determination; and shall thereafter report to each such committee as often as may be necessary to keep such Committee advised as to the extent of such excess, the purposes for which it is used or proposed to be used, and the effects of such use. (As amended Dec. 20, 1975, Pub. L. 94–161, title II, § 204, 89 Stat. 852.)

AMENDMENTS

1975—Pub. L. 94–161 inserted references to the House Committee on International Relations and the Senate Committee on Foreign Relations in the first proviso of subsec. (b)(1), in par. (3) of the penultimate proviso following subsec. (k), and in the end sentence of the section and repealed subsec. (c) reading "To procure equipment, materials, facilities, and services for the common defense including internal security;", respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1703, 1705, 1709, 1733, 1736, 1736a, 1856 of this title; title 22 sections 1922, 2103, 2314.

§ 1706. Payment for commodities.

* * * * *

(b) Sales agreement provisions for use of proceeds for prescribed purposes and programs; payments: prescribed uses as section 1703(b) payments, limitation of amount, report to Congress; priority to sales agreements with countries conforming to certain requirements in their agricultural development plans.

(1) Agreements hereunder for the sale of agricultural commodities for dollars on credit terms shall include provisions to assure that the proceeds from the sale of the commodities in the recipient country are used for such economic development purposes as are agreed upon in the sales agreement or any amendment thereto. In negotiating such agreements with recipient countries, the United States shall emphasize the use of such proceeds for purposes which directly improve the lives of the poorest of their people and their capacity to participate in the development of their countries.

(2) Greatest emphasis shall be placed on the use of such proceeds to carry out programs of agricultural development, rural development, nutrition, and population planning, and to carry out the program described in section 1736(a)(1) of this title, in those countries which are undertaking self-help measures to increase agricultural production, improve storage, transportation, and distribution of commodities, and reduce population growth in accordance with section 1709 of this title, and which programs are directed at and likely to achieve the policy objectives of sections 2151a and 2151b of Title 22 and are consistent with the policy objectives of this chapter, pursuant to agreements between the United States and foreign governments under which uses of such proceeds

shall be made for such purposes. Such uses shall be deemed payments for the purpose of section 1703(b) of this title, except that for any fiscal year the total value of such payments may not exceed 15 per centum of the total value of all agreements entered into under this subchapter for such fiscal year. Such payments shall be described in the reports required by section 1736b of this title and section 2417 of Title 22.

(3) In entering into agreements for the sale of agricultural commodities for dollars on credit terms under this subchapter, priority shall be given to countries which agree to use the proceeds from the sale of the commodities in accordance with the country's agricultural development plan which—

(A) is designed to increase the access of the poor in recipient country to an adequate, nutritious, and stable food supply;

(B) provides for such objectives as—

(i) making farm production equipment and facilities available to farmers,

(ii) credit on reasonable terms and conditions for small farmers, and

(iii) farm extension and technical information services designed to improve the marketing, storage, transportation, and distribution system for agricultural commodities and to develop the physical and institutional infrastructure supporting the small farmer;

(C) provides for participation by the poor, insofar as possible, in the foregoing at the regional and local levels; and

(D) is designed to reach the largest practicable number of farmers in the recipient country.

(As amended Dec. 20, 1975, Pub. L. 94–161, title II, § 205, 89 Stat. 852.)

AMENDMENTS

1975—Subsec. (b)(1). Pub. L. 94–161, § 205(1), (2), designated existing provisions as par. (1) and added requirement that the United States, in negotiating sales agreements with recipient countries, emphasize the use of proceeds for purposes which directly improve the lives of the poorest of their people and their capacity to participate in the development of their countries.

Subsec. (b) (2), (3). Pub. L. 94–161, § 205(3), added pars. (2) and (3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1703, 1707 of this title; title 22 sections 2103, 2314.

§ 1709. Self-help measures.

(a) Criteria of self-help.

Before entering into agreements with developing countries for the sale of United States agricultural commodities on whatever terms, the President shall consider the extent to which the recipient country is undertaking wherever practicable self-help measures to increase per capita production and improve the means for storage and distribution of agricultural commodities, including:

* * * * *

In taking these self-help measures into consideration the President shall take into particular account the extent to which they are being carried out in ways designed to contribute directly to development progress in poor rural areas and to enable the poor to participate actively in increasing agricultural production through small farm agriculture.

* * * * *

(As amended Dec. 20, 1975, Pub. L. 94–161, title II, § 206, 89 Stat. 853.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–161 required the President to take into particular account the extent to which self-help measures are being carried out in ways designed to contribute directly to development progress in poor rural areas and to enable the poor to participate actively in increasing agricultural production through small farm agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1706, 1726, 1736b of this title; title 22 sections 2103, 2314.

§ 1711. Assistance to most seriously affected countries; per capita gross national product determination from World Bank data; report to Congress.

Not more than 25 per centum of the food aid commodities provided under this subchapter in each fiscal year shall be allocated and agreed to be delivered to countries other than those with an annual per capita gross national product of $300 or less and affected by inability to secure sufficient food for their immediate requirements through their own production or commercial purchase from abroad, unless the President certifies to the Congress that the use of such food assistance is required for humanitarian food purposes and neither House of Congress disapproves such use, by resolution, within thirty calendar days after such certification. In determining per capita gross national product for the purposes of this section, the President is authorized and directed to make use of data developed by the World Bank for its most recent annual report and relied upon by the Secretary of the Treasury. A reduction below 75 per centum in the proportion of food aid allocated and agreed to be delivered to countries with a per capita gross national product of $300 or less and affected by inability to secure sufficient food for their immediate requirements through their own production or commercial purchase from abroad which results from significantly changed circumstances occurring after the initial allocation shall not constitute a violation of the requirements of this section. Any reallocation of food aid shall be in accordance with this section so far as practicable. The President shall report promptly any such reduction, and the reasons therefor, to the Congress. (July 10, 1954, ch. 469, title I, § 111, as added Dec. 20, 1975, Pub. L. 94–161, title II, § 207, 89 Stat. 853.)

SUBCHAPTER III.—FAMINE RELIEF AND OTHER ASSISTANCE AND DONATIONS OF FOOD BOTH ON A GOVERNMENT-TO-GOVERNMENT BASIS AND THROUGH VOLUNTARY ORGANIZATIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1732, 1736c, 1736e, 1743 of this title; title 10 section 2681.

§ 1721. Statement of purpose; availability of commodities; minimum quantity for distribution.

(a) The President is authorized to determine requirements and furnish agricultural commodities, on

behalf of the people of the United States of America, to meet famine or other urgent or extraordinary relief requirements; to combat malnutrition, especially in children; to promote economic and community development in friendly developing areas; and for needy persons and nonprofit school lunch and preschool feeding programs outside the United States. The Commodity Credit Corporation shall make available to the President such as [1] agricultural commodities determined to be available under section 1731 of this title as he may request.

(b) The minimum quantity of agricultural commodities distributed under this subchapter shall be 1,300,000 tons of which the minimum distributed through nonprofit voluntary agencies and the World Food Program shall be one million tons in each fiscal year, unless the President determines and reports to the Congress, together with his reasons, that such quantity cannot be used effectively to carry out the purposes of this subchapter: *Provided,* That such minimum quantity shall not exceed the total quantity of commodities determined to be available for disposition under this chapter pursuant to section 1731 of this title, less the quantity of commodities required to meet famine or other urgent or extraordinary relief requirements. (As amended Dec. 20, 1975, Pub. L. 94–161, title II, § 208, 89 Stat. 853.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–161, § 208(1), designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 94–161, § 208(2), added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1722 of this title.

§ 1726. Limitation on use of foreign currencies; reports to Congress.

Except to meet famine or other urgent or extraordinary relief requirements, no assistance under this subchapter shall be provided under an agreement permitting generation of foreign currency proceeds unless (1) the country receiving the assistance is undertaking self-help measures in accordance with section 1709 of this title, (2) the specific uses to which the foreign currencies are to be put are set forth in a written agreement between the United States and the recipient country, and (3) such agreement provides that the currencies will be used for purposes specified in section 2151a of Title 22. The President shall include information on currencies used in accordance with this section in the reports required under section 1736b of this title and section 2417 of Title 22. (July 10, 1954, ch. 469, title II, § 206, as added Dec. 20, 1975, Pub. L. 94–161, title II, § 209, 89 Stat. 854.)

SUBCHAPTER IV.—GENERAL PROVISIONS

§ 1732. Agricultural commodity defined; fishery products available.

The term "agricultural commodity" as used in this chapter and sections 1427 and 1431 of this title shall include any agricultural commodity produced in the United States or product thereof produced in the United States: *Provided, however,* That the term "agricultural commodity" shall not include alcoholic beverages, and for the purposes of subchapter III of this chapter, tobacco or products thereof. The foregoing proviso shall not be construed as prohibiting representatives of the domestic wine industry from participating in market development activities carried out with foreign currencies made available under subchapter II of this chapter which have as their purpose the expansion of export sales of United States agricultural commodities. Subject to the availability of appropriations therefor, any domestically produced fishery product may be made available under this chapter and sections 1427 and 1431 of this title. (As amended July 1, 1971, Pub. L. 92–42, 85 Stat. 99.)

AMENDMENTS

1971—Pub. L. 92–42 inserted requirement that proviso excluding alcoholic beverages from term "agricultural commodity" be not construed as prohibiting domestic wine industry from participating in market development activities for expansion of export sales of domestic agricultural commodities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1707 of this title.

§ 1736. Food production assistance.

(a) Authority of President.

In order to further assist friendly developing countries to become self-sufficient in food production, the President is authorized, notwithstanding any other provision of law—

(1) To establish and administer a program of farmer-to-farmer assistance between the United States and such countries to help farmers in such countries in the practical aspects of increasing food production and distribution and improving the effectiveness of their farming operations;

* * * * *

(5) to coordinate the program authorized in this section with other foreign assistance activities of the United States;

* * * * *

(As amended Dec. 20, 1975, Pub. L. 94–161, title II, § 214, 89 Stat. 855.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–161, § 214(1), substituted "the President" for "the Secretary of Agriculture".

Subsec. (a)(1). Pub. L. 94–161, § 214(2), struck out "through existing agencies of the Department of Agriculture" following "establish and administer".

Subsec. (a)(5). Pub. L. 94–161, § 214(3), substituted "with other foreign assistance activities of the United States" for "with the activities of the Peace Corps, the Agency for International Development, and other agencies of the United States and to assign, upon agreement with such agencies, such persons to work with and under the administration of such agencies: Provided, That nothing in this section shall be construed to infringe upon the powers or functions of the Secretary of State".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1704, 1706 of this title.

§ 1736a. Advisory committee; establishment; composition; general policies' survey; advisement of President; meetings; order of precedence.

There is hereby established an Advisory Committee composed of the Secretary of State, the Secretary of the Treasury, the Secretary of Agriculture, the Director of the Bureau of the Budget, the Admin-

[1] So in original.

istrator of the Agency for International Development, the chairman and the ranking minority member of both the House Committee on Agriculture and the House Committee on Foreign Affairs, and the chairman and the ranking minority member of both the Senate Committee on Agriculture and Forestry and the Senate Committee on Foreign Relations, or their designees (who shall be members of such committees or, in the case of members from the executive branch, who shall have been confirmed by the Senate). The Advisory Committee shall survey the general policies relating to the administration of this chapter and sections 1427 and 1431 of this title, including the manner of implementing the self-help provisions, the uses to be made of foreign currencies which accrue in connection with sales for foreign currencies under subchapter II of this chapter, the amount of currencies to be reserevd in sales agreements for loans to private industry under section 1704(e) of this title, rates of exchange, interest rates, and the terms under which dollar credit sales are made, and shall advise the President with respect thereto. The Advisory Committee shall meet not less than four times during each calendar year at the call of the Acting Chairman of such Committee who shall preside in the following order: The chairman of the House Committee on Agriculture, the chairman of the Senate Committee on Foreign Relations, the chairman of the Senate Committee on Agriculture and Forestry, and the chairman of the House Committee on Foreign Affairs. (As amended Dec. 20, 1975, Pub. L. 94–161, title II, § 210, 89 Stat. 854.)

AMENDMENTS

1975—Pub. L. 94–161 inserted as the end text of the first sentence relating to composition of the Advisory Committee ", or their designees (who shall be members of such committees or, in the case of members from the executive branch, who shall have been confirmed by the Senate)".

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Office of Management and Budget note set out under this section in the main volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1704, 1707 of this title.

§ 1736b. Report to Congress.

(a) The President shall make a report to Congress not later than April 1 each year with respect to the activities carried out under this chapter and sections 1427 and 1431 of this title during the preceding fiscal year. Such report shall describe the progress of each country with which agreements are in effect under subchapter II of this chapter in carrying out its agreements under such subchapter.

(b) In his presentation to the Congress of planned programming of food assistance for each fiscal year, the President shall include a global assessment of food production and needs, self-help steps which are being taken by food-short countries under section 1709(a) of this title, steps which are being taken to encourage other countries to increase their participation in food assistance or the financing of food assistance, and the relationship between food assistance provided to each country under this chapter and other foreign assistance provided to such country by the United States and other donors.

(c) Not later than November 1 of each calendar year the President shall submit to the House Committee on Agriculture, the House Committee on International Relations, the Senate Committee on Agriculture and Forestry, and the Senate Committee on Foreign Relations a revised global assessment of food production and needs, and revised planned programming of food assistance for the current fiscal year, to reflect, to the maximum extent feasible, the actual availability of commodities for food assistance. (As amended Dec. 20, 1975, Pub. L. 94–161, title II, § 211, 89 Stat. 854.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–161, § 211(1), (2), designated existing provisions as subsec. (a) and substituted in first sentence "fiscal" for "calendar" year.

Subsecs. (b), (c). Pub. L. 94–161, § 211(3), added subsecs. (b) and (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1706, 1707, 1726 of this title.

§ 1736c. Termination date for agreements to finance sales under subchapter II and programs of assistance under subchapter III.

No agreements to finance sales under subchapter II of this chapter and no programs of assistance under subchapter III of this chapter shall be entered into after December 31, 1977. (As amended Aug. 10, 1973, Pub. L. 93–86, § 1(26), 87 Stat. 237.)

AMENDMENTS

1973—Pub. L. 93–86 extended termination date for agreements from December 31, 1973 to December 31, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1707 of this title.

§ 1736e. Sale or donation of agricultural commodities to North Vietnam prohibited without specific Congressional authorization.

No agricultural commodities shall be sold under subchapter I or III of this chapter or donated under subchapter II of this chapter to North Vietnam, unless by an Act of Congress enacted subsequent to July 1, 1973, assistance to North Vietnam is specifically authorized. (July 10, 1954, ch. 469, title IV, § 411, as added Nov. 30, 1970, Pub. L. 91–524, title VII, § 704, as added Aug. 10, 1973, Pub. L. 93–86, § 1(26), 87 Stat. 237.)

§ 1736f. International food reserve system.

The President is authorized and encouraged to seek international agreement, subject to congressional approval, for a system of food reserves to meet food shortage emergencies and to provide insurance against unexpected shortfalls in food production, with costs of such a system to be equitably shared among nations and with farmers and consumers to be given firm safeguards against market price disruption from such a system. (July 10, 1954, ch. 469, title IV, § 412, as added Dec. 20, 1975, Pub. L. 94–161, title II, § 212, 89 Stat. 855.)

Chapter 42.—AGRICULTURAL COMMODITY SET-ASIDE

§ 1743. Reduction of set-aside.

OFFICE OF EMERGENCY PREPAREDNESS

Functions of the Director of the Office of Emergency Preparedness under Ex. Ord. No. 10601, Mar. 22, 1955, 20 F.R. 1761, as amended [set out as a note under this section], transferred to the Administrator of General Services, see section 3 of Ex. Ord. No. 11725, June 27, 1973, 38 F.R. 17175, set out as a note under section 2271 of Title 50, Appendix, War and National Defense.

Chapter 44.—WOOL PROGRAM

§ 1782. Price supports; time limitation.

(a) The Secretary of Agriculture shall, through the Commodity Credit Corporation, support the prices of wool and mohair, respectively, to the producers thereof by means of loans, purchases, payments, or other operations. Such price support shall be limited to wool and mohair marketed during the period beginning April 1, 1955, and ending December 31, 1977.

(b) The support price for shorn wool for the 1966 and each subsequent marketing year shall be determined by multiplying 62 cents by the ratio of (i) the average of the parity index (the index of prices paid by farmers, including commodities, and services, interest, taxes, and farm wage rates, as defined in section 1301(a)(1)(C) of this title) for the three calendar years immediately preceding the calendar year in which such price support is determined and announced to (ii) the average parity index for the three calendar years 1958, 1959, and 1960, and rounding the resulting amount to the nearest full cent: *Provided*, That for the marketing years beginning January 1, 1971, and ending December 31, 1977, the support price for shorn wool shall be 72 cents per pound, grease basis.

(c) The support prices for pulled wool and for mohair shall be established at such levels, in relationship to the support price for shorn wool, as the Secretary determines will maintain normal marketing practices for pulled wool, and as the Secretary shall determine is necessary to maintain approximately the same percentage of parity for mohair as for shorn wool. The deviation of mohair support prices shall not be calculated so as to cause it to rise or fall more than 15 per centum above or below the comparable percentage of parity at which shorn wool is supported: *Provided*, That for the marketing years beginning January 1, 1971, and ending December 31, 1977, the support price for mohair shall be 80.2 cents per pound, grease basis.

* * * * *

(As amended Aug. 10, 1973, Pub. L. 93–86, § 1(7)(A), 87 Stat. 224.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–86 substituted "December 31, 1977" for "December 31, 1973".

Subsec. (b). Pub. L. 93–86 substituted "marketing years" for "three marketing years" and "December 31, 1977" for "December 31, 1973".

Subsec. (c). Pub. L. 93–86 substituted "marketing years" for "three marketing years" and "December 31, 1977" for "December 31, 1973".

§ 1787. Agreements; marketing cooperatives, trade associations, etc., approval; referendum.

The Secretary of Agriculture is authorized to enter into agreements with, or to approve agreements entered into between, marketing cooperatives, trade associations, or others engaged or whose members are engaged in the handling of wool, mohair, sheep, or goats or the products thereof for the purpose of developing and conducting on a national, State, or regional basis advertising and sales promotion programs and programs for the development and dissemination of information on product quality, production management, and marketing improvement, for wool, mohair, sheep, or goats or the products thereof. Advertising and sales promotion programs may be conducted outside of the United States for the purpose of maintaining and expanding foreign markets and uses for mohair or goats or the products thereof produced in the United States. Provision may be made in such agreement to obtain the funds necessary to defray the expenses incurred thereunder through pro rata deductions from the payments made under section 1784 of this title to producers within the production area he determines will be benefited by the agreement and for the assignment and transfer of the amounts so deducted to the person or agency designated in the agreement to receive such amounts for expenditure in accordance with the terms and conditions of the agreement. No agreement containing such a provision for defraying expenses through deductions shall become effective until the Secretary determines that at least two-thirds of the producers who, during a representative period determined by the Secretary, have been engaged, within the production area he determines will be benefited by the agreement, in the production for market of such commodity specified therein approve or favor such agreement or that producers who, during such representative period have produced at least two-thirds of the volume of such commodity produced within the area which will be benefited by such agreement, approve or favor such agreement. Approval or disapproval by cooperative associations shall be considered as approval or disapproval by the producers who are members of stockholders in, or under contract with such cooperative association of producers. The Secretary may conduct a referendum among producers to ascertain their approval or favor. The requirements of approval or favor shall be held to be complied with if two-thirds of the total number of producers, or two-thirds of the total volume of production as the case may be, represented in such referendum indicate their approval or favor. (As amended Nov. 30, 1970, Pub. L. 91–524, title III, § 301(6), as added Aug. 10, 1973, Pub. L. 93–86, § 1(7)(B), 87 Stat. 224.)

AMENDMENTS

1973—Pub. L. 91–524, § 301(6), as added by Pub. L. 93–86 inserted reference to programs for the development and dissemination of information on product quality, production management, and marketing improvement and added provisions authorizing the conduct outside of the United States of advertising and sales promotion programs for the purpose of maintaining and expanding foreign markets and uses for mohair or goats or the products thereof produced in the United States.

Chapter 45.—SOIL BANK PROGRAM

§ 1838. Conversion of cropland into vegetative cover, water storage, wildlife and conservation uses; contracts with farmers.

TERMINATION OF ADVISORY BOARDS

Advisory Boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a Board established by the President or an officer of the Federal Government, such Board is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Board established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

Chapter 46.—SURPLUS DISPOSAL OF AGRICULTURAL COMMODITIES

§ 1854. Agreements limiting imports.

EX. ORD. NO. 11851. DELEGATION OF AUTHORITY TO ISSUE REGULATIONS LIMITING IMPORTS OF CERTAIN CHEESES

Ex. Ord. No. 11851, April 10, 1975, 40 F.R. 16645, provided:

By virtue of the authority vested in me by section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854) [this section], and section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The Secretary of the Treasury, with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations, in order to implement an agreement concluded in December 1974 with the Commission of the European Communities designed to prevent the transshipment to the United States of certain cheeses on which restitution payments have been made, is authorized to issue regulations:

(a) to prevent the importation into the Customs Territory of the United States, except for the Commonwealth of Puerto Rico, of certain cheeses, originating in member states of the European Communities, upon which restitution payments have been made for export to (1) Puerto Rico, the Virgin Islands, other United States possessions and territories or (2) any country other than the United States;

(b) to prevent the importation of such cheeses into the Commonwealth of Puerto Rico if such cheeses are imported into the Commonwealth of Puerto Rico for transshipment to other areas of the Customs Territory of the United States.

SEC. 2. Heads of departments and heads of agencies are hereby authorized to redelegate within their respective departments or agencies the functions herein assigned to them, except that the function of issuing regulations delegated to the Secretary of the Treasury by Section 1 of this order may be redelegated only to officials required to be appointed by and with the advice and consent of the Senate, as provided by 3 U.S.C. 301.

GERALD R. FORD.

Chapter 48.—HUMANE METHODS OF LIVESTOCK SLAUGHTER

§ 1905. Advisory committee; functions; composition; compensation; meetings; reports.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

Chapter 50.—AGRICULTURAL CREDIT

SUBCHAPTER I.—REAL ESTATE LOANS

Sec.

1929a. Rural Development Insurance Fund [New].
(a) Creation; revolving fund; rural development loans.
(b) Transfer of funds.
(c) Credits in the Treasury; investments; notes, purchasing authority of the Secretary.
(d) Notes, issuing authority of the Secretary; use of funds; terms and conditions, form, denominations, maturities, and interest rate of notes; notes, purchasing authority of the Secretary of the Treasury; public debt transactions.
(e) Notes and security as part of Insurance Fund; collection and sale of notes; deposit of net proceeds in Insurance Fund.
(f) Deposit of loan service charges in Insurance Fund.
(g) Use of Insurance Fund.
(h) Gross income; interest or other income on insured loans.
1931. Insured watershed and resource conservation and development loans [New].
1932. Rural industrialization assistance [New].
(a) Loans for private business enterprises and pollution abatement and control projects; loan guarantees.
(b) Grants for pollution abatement and control projects; limitations.
(c) Grants for private business enterprises; limitation.
(d) Joint loans or grants for private business enterprises; restrictions; system of certification for expenditious processing of requests for assistance; prior approval of grant or loan; equity investment as condition for loan commitment; issuance of certificates of beneficial ownership of notes.
1933. Guaranteed rural housing loans; Hawaiian home lands [New].

SUBCHAPTER II.—OPERATING LOANS

1947. Insured operating loans [New].

SUBCHAPTER III.—EMERGENCY LOANS

1968. Insurance of loans [New].
1969. [New; Repealed.]
1970. Eligibility for assistance based on production loss [New].
1971. Additional emergency loans [New].

SUBCHAPTER IV.—ADMINISTRATIVE PROVISIONS

1992. Loan limitations [New].
1993. Testimony before Congressional Committees [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 940 of this title; title 12 section 371; title 40 App. section 214; title 42 section 2985c.

SUBCHAPTER I.—REAL ESTATE LOANS

§ 1921. Congressional findings.

REFERENCES IN TEXT

In the original "this chapter" read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended. For distribution of such Title in the Code, see Short Title note under this section.

SHORT TITLE

Section 1 of Pub. L. 92–419, Aug. 30, 1972, 86 Stat. 657, provided: "That this Act [which enacted sections 931–934, 941–948, 1010a, 1929a, 1931–1933, 1947, 1992, 2204a, and 2212a of this title, amended sections 1006a, 1011(e), 1924–1927, 1929, 1941–1943, 1981, 1983, 1985(c), 1991, 2201, and 2204 of this title, section 5315(11) of Title 5, sections 590g, 590h, 590o, and 1001–1005 of Title 16, and section

3122(b) of Title 42, and enacted provisions set out as a note under this section] may be cited as the 'Rural Development Act of 1972'."

Section 301(a) of Pub. L. 87–128, as amended by Pub. L. 92–419, title I, § 101, Aug. 30, 1972, 86 Stat. 657, provided that: "This title [enacting this chapter and section 1013a of this title, amending sections 1924–1927, 1929, 1941–1943, 1981, 1983, 1985, and 1991 of this title, repealing sections 1001–1005d, 1006c–1006e, 1007, 1008, 1009, 1014–1025, 1027–1029 of this title, sections 1148a–1 to 1148a–3 of Title 12, and sections 590r to 590x–4 of Title 16, and enacting provisions set out as a note under this section] may be cited as the 'Consolidated Farm and Rural Development Act'."

§ 1924. Soil and water conservation, recreational facilities and uses, and rural enterprise loans.

(a) Loans may also be made or insured under this subchapter to any farmowners or tenants without regard to the requirements of section 1922 (1), (2), and (3) of this title for the purposes only of land and water development, use and conservation, not including recreational uses and facilities, and without regard to the requirements of section 1922 (2) and (3) of this title, to individual farmowners or tenants to finance outdoor recreational enterprises or to convert to recreational uses their farming or ranching operations, including those heretofore financed under this chapter.

(b) Loans may also be made or insured under this subchapter to residents of rural areas without regard to the requirements of clauses (2) and (3) of section 1922 of this title to acquire or establish in rural areas small business enterprises to provide such residents with essential income. (As amended Pub. L. 92–419, title I, § 102, Aug. 30, 1972, 86 Stat. 657.)

REFERENCES IN TEXT

In the original "this chapter" read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended. For distribution of such title in the Code, see Short Title note under section 1921 of this title.

AMENDMENTS

1972—Pub. L. 92–419 designated existing provisions as subsec. (a) and struck out items (a) and (b) designations therein appearing before "to any farmowner" and "without regard to", respectively; and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1925, 1926, 1927, 1929a, 1932, 1992 of this title.

§ 1925. Limitation on amount of loan.

The Secretary shall make or insure no loan under sections 1922, 1923, and 1924 of this title which would cause (a) the unpaid indebtedness against the farm or other security at the time the loan is made to exceed $225,000 or the value of the farm or other security, (b) the loans under such sections to any one borrower to exceed $100,000, or (c) the loan to exceed the amount certified by the county committee. In determining the value of the farm, the Secretary shall consider appraisals made by competent appraisers under rules established by the Secretary. (As amended Pub. L. 92–419, title I, § 103, Aug. 30, 1972, 86 Stat. 658; Pub. L. 91–524, title VIII, § 807, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 237.)

AMENDMENTS

1973—Pub. L. 91–524, § 807, as added by Pub. L. 93–86 substituted "$225,000" for "$100,000" in cl. (a), added cl. (b), and redesignated former cl. (b) as (c).

1972—Pub. L. 92–419 struck out "normal" from phrase "normal value" in first and second sentences, and last sentence reading "Such appraisals shall take into consideration both the normal agricultural value and the normal market value of the farm."

§ 1926. Water and waste facility loans and grants.

(a) Criteria; definitions; limitation on allowable users of Federal funds; inclusion of interest or other income in gross income on sale of insured loan.

(1) The Secretary is also authorized to make or insure loans to associations, including corporations not operated for profit, Indian tribes on Federal and State reservations and other federally recognized Indian tribes, and public and quasi-public agencies to provide for the application or establishment of soil conservation practices, shifts in land use, the conservation, development, use, and control of water, and the installation or improvement of drainage or waste disposal facilities, recreational developments, and essential community facilities including necessary related equipment, all primarily serving farmers, ranchers, farm tenants, farm laborers, and other rural residents, and to furnish financial assistance or other aid in planning projects for such purposes. When any loan made for a purpose specified in this paragraph is sold out of the Agricultural Credit Insurance Fund as an insured loan, the interest or other income thereon paid to an insured holder shall be included in gross income for purposes of chapter 1 of Title 26.

(2) The Secretary is authorized to make grants aggregating not to exceed $300,000,000 in any fiscal year to such associations to finance specific projects for works for the development, storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas. The amount of any grant made under the authority of this paragraph shall not exceed 50 per centum of the development cost of the project to serve the area which the association determines can be feasibly served by the facility and to adequately serve the reasonably foreseeable growth needs of the area.

(3) No grant shall be made under paragraph (2) of this subsection in connection with any project unless the Secretary determines that the project (i) will serve a rural area which, if such project is carried out, is not likely to decline in population below that for which the project was designed, (ii) is designed and constructed so that adequate capacity will or can be made available to serve the present population of the area to the extent feasible and to serve the reasonably foreseeable growth needs of the area, and (iii) is necessary for an orderly community development consistent with a comprehensive community water, waste disposal, or other development plan of the rural area and not inconsistent with any planned development provided in any State, multijurisdictional, county, or municipal plan approved by competent authority for the area in which the rural community is located, and the Secretary shall require the submission of all applications for financial assistance under this section to the multijurisdictional substate areawide general purpose planning and development agency that has been officially designated as a clearinghouse agency under Office of Management and Budget Circular A–95 and to the

county or municipal government having jurisdiction over the area in which the proposed project is to be located for review and comment within a designated period of time not to exceed 30 days concerning among other considerations, the effect of the project upon the areawide goals and plans of such agency or government. No loan under this section shall be made that is inconsistent with any multijurisdictional planning and deevlopment district areawide plan of such agency. The Secretary is authorized to reimburse such agency or government for the cost of making the required review. Until October 1, 1973, the Secretary may make grants prior to the completion of the comprehensive plan, if the preparation of such plan has been undertaken for the area.

* * * * *

(5) Repealed. Pub. L. 92–419, title I, § 110, Aug. 30, 1972, 86 Stat. 659.

(6) The Secretary may make grants aggregating not to exceed $30,000,000 in any fiscal year to public bodies or such other agencies as the Secretary may determine having authority to prepare comprehensive plans for the development of water or waste disposal systems in rural areas which do not have funds available for immediate undertaking of the preparation of such plan.

(7) As used in this chapter, the terms "rural" and "rural area" shall not include any area in any city or town which has a population in excess of ten thousand inhabitants, except that for purposes of loans and grants for private business enterprises under sections 1924(b), 1932 and 1942 (b), (c), and (d) of this title the terms "rural" and "rural area" may include all territory of a State, the Commonwealth of Puerto Rico and the Virgin Islands, that is not within the outer boundary of any city having a population of fifty thousand or more and its immediately adjacent urbanized and urbanizing areas with a population density of more than one hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States: *Provided,* That special consideration for such loans and grants shall be given to areas other than cities having a population of more than twenty-five thousand.

* * * * *

(11) The Secretary may make grants, not to exceed $10,000,000 annually, to public bodies or such other agencies as he may select to prepare comprehensive plans for rural development or such aspects of rural development as he may specify.

(12) In the making of loans and grants for community waste disposal and water facilities under paragraphs (1) and (2) of this subsection the Secretary shall accord highest priority to the application of any municipality or other public agency (including an Indian tribe on a Federal or State reservation or other federally recognized Indian tribal group) in a rural community having a population not in excess of five thousand five hundred and which, in the case of water facility loans, has a community water supply system, where the Secretary determines that due to unanticipated diminution or deterioration of its water supply, immediate action is needed, or in the case of waste disposal, has a community waste disposal system, where the Secretary determines that due to unanticipated occurrences the system is not adequate to the needs of the community. The Secretary shall utilize the Soil Conservation Service in rendering technical assistance to applicants under this paragraph to the extent he deems appropriate.

(13) (A) The Secretary, under such reasonable rules and conditions as he shall establish, shall make grants to eligible volunteer fire departments for up to 50 per centum of the cost of firefighting equipment needed by such departments but which such departments are unable to purchase through the resources otherwise available to them, and for the cost of the training necessary to enable such departments to use such equipment efficiently.

(B) For the purposes of this subsection, the term "eligible volunteer fire department" means any established volunteer fire department in a rural town, village, or unincorporated area where the population is less than two thousand but greater than two hundred, as reasonably determined by the Secretary.

* * * * *

(As amended Pub. L. 92–419, title I, §§ 104–112, Aug. 30, 1972, 86 Stat. 658, 659; Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 240.)

REFERENCES IN TEXT

In the original "this chapter" read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended. For distribution of such title in the Code, see Short Title note under section 1921 of this title.

AMENDMENTS

1973—Subsec. (a)(13). Pub. L. 91–524, § 816(c), as added by Pub. L. 93–86 added subsec. (a)(13).

1972—Subsec. (a)(1). Pub. L. 92–419, § 104(1), (2), authorized loans to Indian tribes on Federal and State reservations and other federally recognized Indian tribes and included as an allowable use provision for essential community facilities including necessary related equipment, respectively.

Subsec. (a)(2). Pub. L. 92–419, § 105, substituted "$300,000,000" for "$100,000,000".

Subsec. (a)(3). Pub. L. 92–419, §§ 106, 107, substituted "project" for "facility" where first appearing; in item (i), substituted "project" for "facility" and inserted in such text ", if such project is carried out,"; in item (ii), substituted "will or can be" for "will be or can be"; substituted "and (iii)" for "or (iii)" and in such item (iii), substituted "an orderly community development consistent with a comprehensive community water, waste disposal, or other development plan" and "development provided in any State, multijurisdictional, county, or municipal plan approved by competent authority" for "orderly community development consistent with a comprehensive community water or sewer development plan" and "development under State, county, or municipal plans approved as official plans by competent authority", substituted "Secretary shall require the submission of all applications for financial assistance under this section to the multijurisdictional substate areawide general purpose planning and development agency that has been officially designated as a clearinghouse agency under Office of Management and Budget Circular A–95 and to the county or municipal government having jurisdiction over the area in which the proposed project is to be located for review and comment within a designated period of time not to exceed 30 days concerning among other considerations, the effect of the project upon the areawide goals and plans of such agency or government" for "Secretary shall establish regulations requiring the submission of all applications for financial assistance under this chapter to the county or municipal government in which the proposed project is to be located for review and comment by

such agency within a designated period of time"; prohibited loans inconsistent with multijurisdictional planning and development district areawide plan of the agency; authorized agency or government reimbursement for cost of making the review; and extended authority for making grants prior to completion of the comprehensive plan from Oct. 1, 1971, to Oct. 1, 1973.

Subsec. (a)(5). Pub. L. 92–419, § 110, struck out provisions of par. (5) which prohibited any loan or grant under subsec. (a) of this section which would cause the unpaid principal indebtedness of any association under this chapter and Act Aug. 28, 1937, as amended (superseded by this chapter), together with amount of any assistance in the form of a grant to exceed $4,000,000 at any one time.

Subsec. (a)(6). Pub. L. 92–419, § 108, substituted "$30,000,000" for "$15,000,000", struck out "official" preceding "comprehensive plans", and substituted "waste disposal systems" for "sewer systems".

Subsec. (a)(7). Pub. L. 92–419, § 109, substituted definition of "rural" and "rural area" as excluding an area in a city or town with a population in excess of ten thousand inhabitants for prior provision for rural areas for purposes of water and waste disposal projects excluding an area in a city or town with a population in excess of 5,500 inhabitants, provided exception provision and special consideration for loans and grants to areas other than cities having a population of more than twenty-five thousand.

Subsec. (a)(11), (12). Pub. L. 92–419, §§ 111, 112, added pars. (11) and (12).

EFFECTIVE DATE OF 1970 AMENDMENT

Repeal of subsec. (c) of this section by Pub. L. 91–606 effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1927, 1929, 1929a, 1931, 1983, 1992, 2651 of this title; title 42 sections 1855dd, 3122, 3914, 4519, 5153.

§ 1927. Repayment period; interest rate: generally, rural development other than guaranteed and guaranteed loans; fees, charges, and escrow payment of taxes and insurance; mortgages, liens, and other security.

(a) The period for repayment of loans under this subchapter shall not exceed forty years. The Secretary shall from time to time establish the interest rate or rates at which loans for various purposes will be made or insured under this subchapter but not in excess of 5 per centum per annum; except that loans (other than loans to public bodies or nonprofit associations (including Indian tribes on Federal and State reservations and other federally recognized Indian tribal groups) for community facilities, or loans of a type authorized by section 1926(a)(1) of this title prior to its amendment by the Rural Development Act of 1972) made or insured under section 1924(b), 1926(a)(1), or 1932 of this title shall—

(1) when made other than as guaranteed loans, bear interest at a rate, prescribed by the Secretary, not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States comparable to the average maturities of such loans, adjusted in the judgment of the Secretary of the Treasury to provide for a rate comparable to the rates prevailing in the private market for similar loans and considering the Secretary's insurance of the loans, plus an additional charge, prescribed by the Secretary, to cover the Secretary's losses and cost of administration, which charge shall be deposited in the Rural Development Insurance Fund: *Provided*, That the rate so prescribed shall be adjusted to the nearest one-eighth of 1 per centum; and

(2) when made as guaranteed loans, bear interest at such rate as may be agreed upon by the borrower and the lender

The borrower shall pay such fees and other charges as the Secretary may require, and borrowers under this chapter shall prepay to the Secretary as escrow agent such taxes and insurance as he may require, on such terms and conditions as he may prescribe.

(b) The Secretary shall take as security for the obligations entered into in connection with loans, mortgages on farms with respect to which such loans are made or such other security as the Secretary may require, and for obligations in connection with loans to associations under section 1926 of this title, shall take liens on the facility or such other security as he may determine to be necessary. Such security instruments may constitute liens running to the United States notwithstanding the fact that the notes may be held by lenders other than the United States. (As amended Pub. L. 92–419, title I, §§ 113, 114, 128(b), Aug. 30, 1972, 86 Stat. 660, 666.)

REFERENCES IN TEXT

For statutory changes to section 1926(a)(1) of this title by the Rural Development Act of 1972, referred to in subsec. (a), see 1972 Amendment note for section 104 of Pub. L. 92–419, set out under section 1926 of this title.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–419, §§ 113, 114, prescribed interest rates on rural development other than guaranteed and guaranteed loans and escrow payment of taxes and insurance, respectively.

Subsec. (b). Pub. L. 92–419, § 128(b), substituted "may" for "shall" in second sentence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1929, 1931, 1947, 1968 of this title.

§ 1928. Insurance of loans; servicing and purchase of loans; retention of charges out of payments; full faith and credit of United States; incontestability.

Loans under this subchapter may be insured by the Secretary whenever funds are advanced or a loan is purchased by a lender other than the United States. In connection with insurance of loans, the Secretary—

* * * * *

(As amended Pub. L. 92–133, Oct. 5, 1971, 85 Stat. 364.)

AMENDMENTS

1971—Pub. L. 92–133 eliminated October 1, 1971, as time limitation for insurance of loans.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1929, 1929a, 1931, 1947, 1968 of this title; title 42 section 1485.

§ 1929. Agricultural Credit Insurance Fund.

* * * * *

(f) Utilization of fund.

The Secretary may utilize the fund—

(1) to make loans which could be insured under this subchapter whenever the Secretary has reasonable assurance that they can be sold without undue delay, and may sell and insure such loans

The aggregate of the principal of such loans made and not disposed of shall not exceed $500,000,000 at any one time;

(2) to pay amounts to which the holder of the note is entitled on loans heretofore or hereafter insured accruing between the date of any payments made by the borrower and the date of transmittal of any such payments to the lender. In the discretion of the Secretary, payments other than final payments need not be remitted to the holder until due or until the next agreed annual or semiannual remittance date;

* * * * *

(5) to pay for contract services, taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections and other expenses and advances authorized in connection with insured loans, including the difference between interest payable by borrowers and interest to which insured lenders or insured holders are entitled under agreements with the Secretary included in contracts of insurance.

(g) Transfer of funds from Farmers Home Administration direct loan account and Emergency Credit Revolving Fund; abolition of such account and fund; payments from Agricultural Credit Insurance Fund; interest.

(1) The assets and liabilities of, and authorizations applicable to, the Farmers Home Administration direct loan account created by section 1988(c) of this title and the Emergency Credit Revolving Fund referred to in section 1966 of this title are hereby transferred to the fund, and such account and such revolving fund are hereby abolished. Such assets and their proceeds, including loans made out of the fund pursuant to this section, shall be subject to the provisions of this section, section 1928, the last sentence of section 1926(a)(1), and the last sentence of section 1927 of this title.

(2) From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into the Treasury as miscellaneous receipts interest on the value as determined by the Secretary, with the approval of the Comptroller General, of the Government's equity transferred to the fund pursuant to the first sentence of this subsection plus the cumulative amount of appropriations made available after enactment of this provision as capital and for administration of the programs financed from the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of loans made or insured from the fund, adjusted to the nearest one-eighth of 1 per centum. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines that moneys in the fund exceed present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

(h) Guaranteed loans.

The Secretary may provide financial assistance to borrowers for purposes provided in this chapter by guaranteeing loans made by any Federal or State chartered bank, savings and loan association, cooperative lending agency, or other legally organized lending agency. (As amended Pub. L. 92–419, title I, § 115, Aug. 30, 1972, 86 Stat. 660.)

AMENDMENTS

1972—Subsec. (f)(1). Pub. L. 92–419, § 115(a)(1), substituted "$500,000,000" for "$100,000,000".

Subsec. (f)(2). Pub. L. 92–419, § 115(a)(2), substituted "amounts" for "the interest" and "payments" for "prepayments" in three instances and inserted after "until due" the words "or until the next agreed annual or semiannual remittance date".

Subsec. (f)(5). Pub. L. 92–419, § 115(a)(3), (4), substituted "connection with insured loans, including the difference between interest payable to borrowers and interest to which insured lenders or insured holders are entitled under agreements with the Secretary included in contracts of insurance" for "section 1985(a) of this title in connection with insured loans," and provided payment for contract services.

Subsecs. (g), (h). Pub. L. 92–419, § 115(b), added subsecs. (g) and (h).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1929a, 1931, 1947, 1968 of this title; title 42 sections 1485, 1487.

§ 1929a. Rural Development Insurance Fund.

(a) Creation; revolving fund; rural development loans.

There is hereby created the Rural Development Insurance Fund (hereinafter in this section referred to as the "Insurance Fund") which shall be used by the Secretary as a revolving fund for the discharge of the obligations of the Secretary under contracts guaranteeing or insuring rural development loans. For the purpose of this section "rural development loans" shall be those provided for by sections 1924(b), 1926(a)(1), 1932, and 1942(b) of this title, except loans (other than for water systems and waste disposal facilities) of a type authorized by section 1926(a)(1) of this title prior to its amendment by the Rural Development Act of 1972.

(b) Transfer of funds.

The assets and liabilities of the Agricultural Credit Insurance Fund referred to in section 1929(a) of this title applicable to loans for water systems and waste disposal facilities under section 1926(a)(1) of this title are hereby transferred to the Insurance Fund. Such assets (including the proceeds thereof) and liabilities and rural development loans guaranteed or insured pursuant to this subchapter shall be subject to the provisions of this section and section 1928 of this title.

(c) Credits in the Treasury; investments; notes, purchasing authority of the Secretary.

Moneys in the Insurance Fund not needed for current operations shall be deposited in the Treasury of the United States to the credit of the Insurance Fund or invested in direct obligations of the United States or obligations guaranteed by the United States. The Secretary may purchase with money in the Insurance Fund any notes issued by the Secretary to the Secretary of the Treasury for the purpose of obtaining money for the Insurance Fund.

(d) Notes, issuing authority of the Secretary; use of funds; terms and conditions, form, denominations, maturities, and interest rate of notes; notes, purchasing authority of the Secretary of the Treasury; public debt transactions.

The Secretary is authorized to make and issue notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations under this section and for making loans, advances, and authorized expenditures out of the Insurance Fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the average maturities of rural development loans made, guaranteed, or insured under this chapter. The Secretary of the Treasury is authorized and directed to purchase any notes of the Secretary issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which such securities may be issued under such Act, as amended, are extended to include the purchase of notes issued by the Secretary hereunder. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States.

(e) Notes and security as part of Insurance Fund; collection and sale of notes; deposit of net proceeds in Insurance Fund.

Notes and security acquired by the Secretary in connection with rural development loans made, guaranteed, or insured under this chapter or transferred by subsection (b) of this section shall become a part of the Insurance Fund. Notes may be held in the Insurance Fund and collected in accordance with their terms or may be sold by the Secretary with or without agreements for insurance thereof at the balance due thereon, or on such other basis as the Secretary may determine from time to time. All net proceeds from such collections, including sales of notes or property, shall be deposited in and become a part of the Insurance Fund.

(f) Deposit of loan service charges in Insurance Fund.

The Secretary shall deposit in the Insurance Fund any charges collected for loan services provided by the Secretary as well as charges assessed for losses and costs of administration in connection with making, guaranteeing, or insuring rural development loans under this chapter.

(g) Use of Insurance Fund.

The Secretary may utilize the Insurance Fund—

(1) to make rural development loans which could be insured under this chapter whenever he has a reasonable assurance that they can be sold without undue delay, and he may sell and insure such loans;

(2) to pay amounts to which the holder of insured notes is entitled on loans heretofore or hereafter insured accruing between the date of any payments by the borrower and the date of transmittal of any such payments to the holder. In the discretion of the Secretary, payments other than final payments need not be remitted to the holder until due or until the next agreed annual or semiannual remittance date;

(3) to pay to the holder of insured notes any defaulted installment, or upon assignment of the note to the Secretary at the Secretary's request, the entire balance due on the loan;

(4) to purchase notes in accordance with contracts of insurance heretofore or hereafter entered into by the Secretary;

(5) to make payments in compliance with the Secretary's obligations under contracts of guarantee entered into by him;

(6) to pay taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections or necessary to obtain credit reports on applicants or borrowers, expenses for necessary services, including construction inspections, commercial appraisals, loan servicing, consulting business advisory or other commercial and technical services, and other program services, and other expenses and advances authorized in section 1985 (a) of this title in connection with insured loans. Such items may be paid in connection with guaranteed loans after or in connection with acquisition by the Secretary of such loans or security therefor after default, to an extent determined by the Secretary to be necessary to protect the interest of the Government, or in connection with grants and any other activity authorized in this chapter;

(7) to pay the difference between interest payments by borrowers and interest to which holders of insured notes are entitled under contracts of insurance heretofore or hereafter entered into by the Secretary; and

(8) to pay the Secretary's costs of administration of the rural development loan program, including costs of the Secretary incidental to guaranteeing rural development loans under this chapter.

(h) Gross income; interest or other income on insured loans.

When any loan is sold out of the Insurance Fund as an insured loan, the interest or other income thereon paid to an insured holder shall be included in gross income for purposes of chapter 1 of Title 26. (Pub. L. 87–128, title III, § 309A, as added Pub. L. 92–419, title I, § 116, Aug. 30, 1972, 86 Stat. 661.)

REFERENCES IN TEXT

In the original "this chapter" read "this title", meaning the Consolidated Farm and Rural Development Act, Title III of Pub. L. 87–128, as amended. For distribution of such Title in the Code, see Short Title note under section 1921 of this title.

For statutory changes to section 1926(a)(1) of this title by the Rural Development Act of 1972, referred to in subsec. (a), see 1972 Amendment note for section 104 of Pub. L. 92–419, set out under section 1926 of this title.

The Second Liberty Bond Act, as amended, referred to in subsec. (d), is Act Sept. 24, 1917, c. 56, 40 Stat. 288, as amended, which is classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and

757c, former section 757c–1, sections 757c–2, 757c–3, 757c–4, 757d, 757e, 758, 760, and 764, former section 765, and sections 766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

§ 1931. Insured watershed and resource conservation and development loans.

Loans meeting the requirements of the Watershed Protection and Flood Prevention Act or title III of the Bankhead-Jones Farm Tenant Act may be insured, or made to be sold and insured, in accordance with and subject to sections 1928 and 1929, the last sentence of section 1926(a)(1), and the last sentence of section 1927 of this title. (Pub. L. 87–128, title III, § 310A, as added Pub. L. 92–419, title I, § 117, Aug. 30, 1972, 86 Stat. 663.)

REFERENCES IN TEXT

Watershed Protection and Flood Prevention Act, referred to in the text, is classified to chapter 18 of Title 16, Conservation.

Title III of the Bankhead-Jones Farm Tenant Act, referred to in the text, is classified to sections 1010, 1011, 1012, and 1013a of this title.

§ 1932. Rural industrialization assistance.

(a) Loans for private business enterprises and pollution abatement and control projects; loan guarantees.

The Secretary may also make and insure loans to public, private, or cooperative organizations organized for profit or nonprofit, to Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, or to individuals for the purpose of improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural communities, including pollution abatement and control. Such loans, when originated, held, and serviced by other lenders, may be guaranteed by the Secretary under this section without regard to subsections (a) and (c) of section 1983 of this title.

(b) Grants for pollution abatement and control projects; limitations.

The Secretary may make grants, not to exceed $50,000,000 annually, to eligible applicants under this section or pollution abatement and control projects in rural areas. No such grant shall exceed 50 per centum of the development cost of such a project.

(c) Grants for private business enterprises; limitation.

The Secretary may also make grants, not to exceed $50,000,000 annually, to public bodies for measures designed to facilitate development of private business enterprises, including the development, construction or acquisition of land, buildings, plants, equipment, access streets and roads, parking areas, utility extensions, necessary water supply and waste disposal facilities, refinancing, services and fees.

(d) Joint loans or grants for private business enterprises; restrictions; system of certification for expeditious processing of requests for assistance; prior approval of grant or loan; equity investment as condition for loan commitment; issuance of certificates of beneficial ownership of notes.

The Secretary may participate in joint financing to facilitate development of private business enterprises in rural areas with the Economic Development Administration, the Small Business Administration, and the Department of Housing and Urban Development and other Federal and State agencies and with private and quasi-public financial institutions, through joint loans to applicants eligible under subsection (a) of this section for the purpose of improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural areas or through joint grants to applicants eligible under subsection (c) of this section for such purposes, including in the case of loans or grants the development, construction, or acquisition of land, buildings, plants, equipment, access streets and roads, parking areas, utility extensions, necessary water supply and waste disposal facilities, refining, service and fees.

(1) No financial or other assistance shall be extended under any provision of sections 1924(b), 1932, and 1942(b) of this title that is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant, but this limitation shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment in the area of original location or in any other area where such entity conducts business operations unless there is reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(2) No financial or other assistance shall be extended under any provision of sections 1924(b), 1932, and 1942(b) of this title which is calculated to or likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

(3) No financial or other assistance shall be extended under any provision of sections 1924(b), 1932, and 1942(b) of this title if the Secretary of Labor certifies within 60 days after the matter has been submitted to him by the Secretary of Agriculture that the provisions of paragraphs (1) and (2) of this subsection have not been complied with. The Secretary of Labor shall, in cooperation with the Secretary of Agriculture, develop a system of certification which will insure the expeditious processing of requests for assistance under this section.

(4) No grant or loan authorized to be made under this chapter shall require or be subject to the prior approval of any officer, employee, or agency of any State.

(5) No loan commitment issued under this section, section 1924 of this title or section 1942 of this title shall be conditioned upon the applicant investing in excess of 10 per centum in the business or industrial enterprise for which purpose the loan is to be made unless the Secretary determines there are

special circumstances which necessitate an equity investment by the applicant greater than 10 per centum.

(6) No provision of law shall prohibit issuance by the Secretary of certificates evidencing beneficial ownership in a block of notes insured or guaranteed under this chapter or Title V of the Housing Act of 1949; any sale by the Secretary of such certificates shall be treated as a sale of assets for the purposes of the Budget and Accounting Act of 1921. Any security representing beneficial ownership in a block of notes guaranteed or insured under this chapter or Title V of the Housing Act of 1949 issued by a private entity shall be exempt from laws administered by the Securities and Exchange Commission, except sections 77q, 77v and 77x of Title 15; however, the Secretary shall require (i) that the issuer place such notes in the custody of an institution chartered by a Federal or State agency to act as trustee and (ii) that the issuer provide such periodic reports of sales as the Secretary deems necessary. (Pub. L. 87–128, title III, § 310 B, as added Pub. L. 92–419, title I, § 118(a), Aug. 30, 1972, 86 Stat. 663, and amended Pub. L. 91–524, title VIII, § 817, as added Pub. L. 93–86, § 1(27) (B), Aug. 10, 1973, 87 Stat. 241.)

REFERENCES IN TEXT

In the original "this chapter" read "this Act," meaning the Consolidated Farm and Rural Development Act, Title III of Pub. L. 87–128, as amended. For distribution of such Act in the Code, see Short Title note under section 1921 of this title.

Title V of the Housing Act of 1949, referred to in subsec. (d)(6), is classified to section 1471 et seq. of Title 42, The Public Health and Welfare.

Budget and Accounting Act of 1921, referred to in subsec. (d)(6), is classified to chapter 1 and sections 71, 471, 581 and 581a of Title 31, Money and Finance.

AMENDMENTS

1973—Subsec. (d)(4)–(6). Pub. L. 91–524, § 817, as added by Pub. L. 93–86 added subsec. (d)(4)–(6).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1926, 1927, 1929a, 1983, 1992 of this title.

§ 1933. Guaranteed rural housing loans; Hawaiian home lands.

(a) Rural Housing Loans which (1) are guaranteed by the Secretary under section 517(a)(2) of the Housing Act of 1949, (2) are made by other lenders approved by the Secretary to provide dwellings in rural areas for the applicants' own use, and (3) bear interest and other charges at rates not above the maximum rates prescribed the Secretary of Housing and Urban Development for loans made by private lenders for similar purposes and guaranteed by the Secretary of Housing and Urban Development under the National Housing Act or superseding legislation shall not be subject to sections 501(c) and 502(b)(3) of the Housing Act of 1949.

(b) For the purposes of title V of the Housing Act of 1949, as amended, a guarantee of payment given under the color of law by the Department of Hawaiian Home Lands (or its successor in function) shall be found by the Secretary reasonably to assure repayment of any indebtedness so guaranteed. (Pub. L. 87–128, title III, § 310C, as added Pub. L. 92–419, title I, § 119, Aug. 30, 1972, 86 Stat. 664.)

REFERENCES IN TEXT

National Housing Act, referred to in subsec. (a), is classified to chapter 13 (section 1701 et seq.) of Title 12, Banks and Banking.

Sections 501(c), 502(b)(3), and 517(a)(2) of the Housing Act of 1949, referred to in subsec. (a), and title V of the Housing Act of 1949, as amended, referred to in subsec. (b), are farm housing provisions classified to sections 1471(c), 1472(b)(3), 1487(a)(2), and section 1471 et seq. of Title 42, The Public Health and Welfare, respectively.

SUBCHAPTER II.—OPERATING LOANS

§ 1941. Persons eligible for loans.

(a) The Secretary is authorized to make loans under this subchapter to farmers and ranchers in the United States and in Puerto Rico and the Virgin Islands who (1) are citizens of the United States, (2) have a farm background and training or farming experience which the Secretary determines is sufficient to assure reasonable prospects of success in the proposed farming operation, (3) are or will become operators of not larger than family farms, and (4) are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

(b)(1) Loans may also be made under this subchapter without regard to the requirements of clauses (2) and (3) of subsection (a) of this section to youths who are rural residents to enable them to operate enterprises in connection with their participation in 4–H Clubs, Future Farmers of America, and similar organizations and for the purposes specified in section 1942 of this title.

(2) A person receiving a loan under this subsection who executes a promissory note therefore shall thereby incur full personal liability for the indebtedness evidenced by such note in accordance with its terms free of any disability of minority.

(3) For loans under ths subsection the Secretary may accept the personal liability of a cosigner of the promissory note in addition to the borrowers' personal liability. (As amended Pub. L. 92–419, title I, § 120(a), Aug. 30, 1972, 86 Stat. 665.)

AMENDMENTS

1972—Pub. L. 92–419 designated existing provisions as subsec. (a) and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1942 of this title.

§ 1942. Purposes of loans; grants for pollution abatement and control projects, limitations.

(a) Loans may be made under this subchapter for (1) paying costs incident to reorganizing the farming system for more profitable operation, (2) purchasing livestock, poultry, and farm equipment, (3) purchasing feed, seed, fertilizer, insecticides, and farm supplies and to meet other essential farm operating expenses including cash rent, (4) financing land and water development, use, and conservation, (5) without regard to the requirements of section 1941(a)(2) and (3) of this title, to individual farmers or ranchers to finance outdoor recreational enterprises or to convert to recreational uses their farming or ranching operations, including those heretofore financed under this chapter, (6) enter-

prises needed to supplement farm income, (7) refinancing existing indebtedness, (8) other farm and home needs including but not limited to family subsistence, (9) loan closing costs, and (10) for assisting farmers or ranchers in effecting additions to or alterations in the equipment, facilities, or methods of operation of their farms or ranches in order to comply with the applicable standards promulgated pursuant to section 655 to Title 29 or standards adopted by a State pursuant to a plan approved under section 667 of Title 29, if the Secretary determines that any such farmer or rancher is likely to suffer substantial economic injury due to such compliance without assistance under this paragraph.

(b) Loans may also be made under this subchapter to residents of rural areas without regard to the requirements of clauses (2) and (3) of section 1941(a) of this title to operate in rural areas small business enterprises to provide such residents with essential income.

(c) Loans may also be made to eligible applicants under this subchapter for pollution abatement and control projects in rural areas.

(d) The Secretary may make grants, not to exceed $25,000,000 annually, to eligible applicants under this subchapter for pollution abatement and control projects in rural areas. No such grant shall exceed 50 per centum of the development cost of such a project. (As amended Pub. L. 92–419, title I, §§ 120 (b), 121, Aug. 30, 1972, 86 Stat. 665.)

REFERENCES IN TEXT

In the original "this chapter" read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended. For distribution of such title in the Code, see Short Title note under section 1921 of this title.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–419, §§ 120(b), 121 (1), (2), substituted "section 1941(a) for "section 1941" and designated existing provisions as subsec. (a), and added item (10).

Subsecs. (b)–(d). Pub. L. 92–419, § 121(3), added subsecs. (b)–(d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1926, 1929a, 1932, 1941, 1947, 1992 of this title.

§ 1943. Limitations and prohibitions on loans.

The Secretary shall make no loan under this subchapter (1) which would cause the total principal indebtedness outstanding at any one time for loans made under this subchapter and under section 21 of the Bankhead-Jones Farm Tenant Act, as amended, to exceed $50,000, (2) for the purchasing or leasing of land other than for cash rent, or for carrying on any land leasing or land purchasing program, or (3) in excess of an amount certified by the county committee. (As amended Pub. L. 92–419, title I, § 122, Aug. 30, 1972, 86 Stat. 665.)

AMENDMENTS

1972—Pub. L. 92–419 substituted "$50,000" for "$35,000".

§ 1947. Insured operating loans.

Loans meeting the requirements of this subchapter (except section 1942(b) of this title) may be insured, or made to be sold and insured, in accordance with and subject to sections 1928 and 1929 and the last sentence of section 1927 of this title. (Pub. L. 87–128, title III, § 317, as added Pub. L. 92–419, title I, § 123, Aug. 30, 1972, 86 Stat. 665.)

SUBCHAPTER III.—EMERGENCY LOANS

EMERGENCY LIVESTOCK CREDIT

Pub. L. 93–357, July 25, 1974, 88 Stat. 391, as amended by Pub. L. 94–35, June 16, 1975, 89 Stat. 213, provided: "That

"[Sec. 1. Short Title.] This Act may be cited as the 'Emergency Livestock Credit Act of 1974'.

"Sec. 2. [FinancialAssistance; Loan Guarantees; Term and Renewal] (a) The Secretary of Agriculture is authorized and directed to provide financial assistance to bona fide farmers and ranchers who are primarily and directly engaged in agricultural production and who have substantial operations in breeding, raising, fattening, or marketing livestock. In the case of corporations or partnerships, such financial assistance shall be extended only when a majority interest in such corporations or partnerships is held by stockholders or partners who themselves are primarily and directly engaged in such agricultural production. For purposes of this Act, the term 'livestock' shall mean beef cattle, dairy cattle, swine, sheep, goats, chickens, and turkeys including dairy cattle raised and maintained for the primary purpose of marketing dairy products.

"(b) The Secretary shall guarantee loans, including both principal and interest, made by any legally organized lending agency which otherwise meet the purposes and conditions of this Act. As used herein, a guaranteed loan is one which is made, held, and serviced by a legally organized lending agency and which is guaranteed by the Secretary hereunder: *Provided*, That the term 'legally organized lending agency' shall be deemed to include the Federal Financing Bank only to the extent that such bank may hold the guaranteed portion of such loans.

"(c) No contract guaranteeing any such loan by a lender shall require the Secretatry to guarantee more than 90 per centum of the principal and interest on such loan.

"(d) No fees or charges shall be assessed by the Secretary for any guarantee provided by him under this Act.

"(e) Loans guaranteed under this Act shall bear interest at a rate to be agreed upon by the lender and borrower.

"(f) Loans guaranteed under this Act shall be for the period reasonably required by the needs of the borrower, taking into consideration the security the borrower has available, but not exceeding an original term of seven years. Loans may be renewed for not more than three additional years.

"Sec. 3. [Loan Certification] As a condition of the Secretary's guaranteeing any loan under this Act—

"(a) The lender shall certify that—

"(1) the lender is unwilling to provide credit to the loan applicant in the absence of the guarantee authorized by this Act;

"(2) the loan applicant is directly and in good faith engaged in agricultural production, and the financing to be furnished the loan applicant is to be used for purposes related to the breeding, raising, fattening, or marketing of livestock;

"(3) the loan is for the purpose of maintaining the operations of the loan applicant, and the total loans made to the loan applicant do not exceed the amount necessary to permit the continuation of his livestock operations at a level equal to its highest level during the eighteen months immediately preceding the date of enactment of this Act [July 25, 1974]: *Provided*, That the total principal balance outstanding at any one time on loans guaranteed under this Act for any borrower shall not exceed $350,000;

"(4) in the case of any loan to refinance the livestock operations of a loan applicant (i) the loan and refinancing are absolutely essential in order for the loan applicant to remain in business, (ii) the lending agency would not refinance such loan in the absence of a guarantee, and (iii) the lending agency is not currently refinancing similar loans to others without such guarantees.

"(b) The loan applicant shall certify that he will be unable to obtain financing in the absence of the guarantee authorized by this Act.

"(c) The Secretary finds there is reasonable probability of accomplishing the objectives of the Act and repayment of the loan.

"Sec. 4. [Adequate Security] Loans guaranteed under this Act shall be secured by collateral adequate to protect the Government's interests, as determined by the Secretary: *Provided,* That the Secretary may accept collateral which has depreciated in value owing to temporary economic conditions and which, in the opinion of the lender, together with his confidence in the repayment ability of the borrower, is adequate security for the loan.

"Sec. 5. [Limitation on Outstanding Loan Guarantees] Loan guarantees outstanding under this Act shall not exceed $1,500,000,000 at any one time. Subject to the provisions of section 2(c) of this Act, the fund created in section 309 of the Consolidated Farm and Rural Development Act [section 1229 of this title] shall be used by the Secretary for the discharge of the obligations of the Secretary under contracts of guarantee made pursuant to this Act. Such fund may also be utilized to pay administrative expenses of the Secretary necessary to carry out the provisions of this Act. The Secretary in his discretion is authorized to use the funds from the Agricultural Credit Insurance Fund to purchase, on such terms and conditions as he may deem appropriate, the guaranteed portion of any loan made pursuant to this Act and to pay such expenses and fees incident to such purchases.

"Sec. 6. [Non-inclusion in Budget Totals; Exemption From General Limitations] Contracts of guarantee under this Act shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

"Sec. 7. [Full Faith and Credit] Any contract of guarantee executed by the Secretary under this Act shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

"Sec. 8. [Effective Date] The provisions of this Act shall become effective upon enactment, and the authority to make new guarantees shall terminate on December 31, 1976.

"Sec. 9. [Certificates; Assignment] (a) The provisions of section 310B(d)(6) of the Consolidated Farm and Rural Development Act [section 1932(d)(6) of this title] shall apply to loans guaranteed under this Act.

(b) Contracts of guarantee executed pursuant to the provisions of this Act shall be fully assignable.

"Sec. 10. [Rules and Regulations] The Secretary is authorized to issue such regulations as he determines necessary to carry out this Act. The proposed regulations shall be issued as soon as possible, but in no event later than thirty days from the date of enactment of this Act [July 25, 1974]. Insofar as practicable, the Secretary shall complete action on each loan application within thirty days after its receipt.

"Sec. 11. [Report by Secretary]. The Secretary shall report to the Committee on Agriculture, United States House of Representatives, and the Committee on Agriculture and Forestry, United States Senate, on or within one year of the date of the enactment of this section [June 16, 1975], and annually thereafter, with respect to the effectiveness of this Act. The Secretary shall be required, but not limited, to include in such report the number of loan applications submitted, the number and amount of loans approved, the financial situation facing cattlemen at the time of the report, the effect of this Act on the retail marketing of beef and on the farm-retail price spread of beef, and any recommendations he may have as to actions which can be taken to further decrease the price spread and to increase the consumption of beef."

§ 1961. Designation of emergency areas; persons eligible for loans.

(a) The Secretary shall designate any area in the United States, Puerto Rico, and the Virgin Islands as an emergency area if he finds that a natural disaster has occurred in said area which substantially affected farming, ranching, or aquaculture operations. For purposes of this subchapter "aquaculture" means husbandry of aquatic organisms under a controlled or selected environment.

(b) The Secretary shall make loans in any such area designated by the Secretary in accordance with subsection (a) of this section and in any area designated as a major disaster or emergency by the President pursuant to the provisions of the Disaster Relief Act of 1970, as amended, (1) to established farmers, ranchers, or persons engaged in aquaculture who are citizens of the United States and (2) to private domestic corporations or partnerships engaged primarily in farming, ranching, or aquaculture: *Provided,* That they have experience and resources necessary to assure a reasonable prospect for successful operation with the assistance of such loan and are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. The provisions of this subsection shall not be applicable to loan applications filed prior to July 9, 1975. (As amended Pub. L. 93–24, §§ 2, 3, 6, Apr. 20, 1973, 87 Stat. 24, 25; Pub. L. 93–237, § 10(a), (d), Jan. 2, 1974, 87 Stat. 1025; Pub. L. 94–68, §§ 2, 3, Aug. 5, 1975, 89 Stat. 381.)

References in Text

In the original "this chapter" read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended. For distribution of such title in the Code, see Short Title note under section 1921 of this title.

The Disaster Relief Act of 1970, as amended, referred to in subsec. (b), was repealed and is now covered by the Disaster Relief Act of 1974, section 5121 et seq. of Title 42, The Public Health and Welfare.

Amendments

1975—Subsec. (a). Pub. L. 94–68, § 2, substituted provisions authorizing the Secretary to designate an emergency area if he finds that a natural disaster has occurred in that area which substantially affected farming, ranching, or aquaculture operations for provisions authorizing the Secretary to designate an emergency area if he finds that there exists in that area a general need for agricultural credit and that the need for such credit in that area is the result of a natural disaster, and added definition of "aquaculture".

Subsec. (b). Pub. L. 94–68, § 3, extended the authority of the Secretary to make loans to areas designated by the President as "Emergency" pursuant to Disaster Relief Act of 1970, substituted reference to persons engaged in aquaculture and aquaculture for reference to oyster planters and oyster planting respectively, struck out provision that such loans be made without regard to whether the required financial assistance is otherwise available from private, cooperative, or other responsible sources, added requirement that the loan applicant be unable to obtain credit elsewhere at reasonable rates and terms, and added sentence that the provisions of this subsection shall not apply to loan applications filed prior to July 9, 1975.

1974—Subsec. (a). Pub. L. 93–237, § 10(d), struck out "which cannot be met for temporary periods of time by private, cooperative, or other responsible sources (including loans the Secretary is authorized to make or insure under subchapters I and II of this chapter or any other Act of Congress), at reasonable rates and terms for loans for similar purposes and periods of time" following "a general need for agricultural credit".

Subsec. (b). Pub. L. 93–237, § 10(a), struck out ", and are unable to obtain sufficient credit elsewhere to finance

their actual needs at reasonable rates and terms, taking into consideration prevailing practice and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time" following "a reasonable prospect for successful operation with the assistance of such loan" and added provision that the loans be made without regard to whether the required financial assistance is otherwise available from the private, cooperative, or other responsible sources.

1973—Subsec. (a). Pub. L. 93–24, §§ 2, 6, substituted in the parenthetical text "authorized to make or insure under subchapters I and II of this chapter" for "authorized to make under subchapter II of this chapter or to make or insure under subchapter I of this chapter" and the introductory words "shall designate" for "may designate", respectively.

Subsec. (b). Pub. L. 93–24, § 3, substituted the introductory text "shall make loans in any such area designated by the Secretary in accordance with subsection (a) of this section and in any area designated as a major disaster by the President pursuant to the provisions of the Disaster Relief Act of 1970, as amended," for "is authorized to make loans in any such area" and ": Provided, That" for "provided" preceding "they have experience".

EFFECTIVE DATE OF 1974 AMENDMENT

Section 10(b) of Pub. L. 93–237 provided that: "The provisions of subsection (a) of this section [amending subsec. (b) of this section] shall be given effect with respect to all loan applications and loans made in connection with a disaster occurring on or after April 20, 1973."

Section 10(d) of Pub. L. 93–237 provided in part that: "The provisions of this subsection [amending subsec. (a) of this section] shall be given effect with respect to all loan applications and loans made in connection with a disaster occurring on or after December 27, 1972."

NINETY-DAY EXTENSION AFTER JAN. 2, 1974, OF DEADLINE FOR SEEKING ASSISTANCE WITH REGARD TO DISASTERS OCCURRING ON OR AFTER DEC. 27, 1972.

Section 10(c) of Pub. L. 93–237 provided that: "With regard to all disasters occurring on or after December 27, 1972, the Secretary of Agriculture shall extend for ninety days after the date of enactment of this section [Jan. 2, 1974] the deadline for seeking assistance under section 321 of the Consolidated Farm and Rural Development Act [this section] as amended by this section [amending this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1965, 1983 of this title; title 15 section 636; title 42 section 4021.

§ 1962. Purpose and extent of loans.

Loans may be made under this subchapter for any of the purposes authorized for loans under subchapter I or II of this chapter, as well as for crop or livestock changes deemed desirable by the applicant: *Provided,* That such loans may include, but are not limited to, the amount of the actual loss sustained as a result of the disastser. (As amended Pub. L. 94–68, § 4, Aug. 5, 1975, 89 Stat. 381.)

REFERENCES IN TEXT

In the original "this chapter" read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended. For distribution of such title in the Code, see Short Title note under section 1921 of this title.

AMENDMENTS

1975—Pub. L. 94–68 extended the authority to finance crop or livestock changes deemed desirable as a result of changes in market demand, and to make emergency loans in excess of the actual loss sustained as a result of the natural disaster.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1969 of this title.

§ 1964. Liability of borrower; interest rate; maturity; security.

Loans made or insured under this chapter shall be (1) at a rate of interest not in excess of 5 per centum per annum on loans up to the amount of the actual loss caused by the disaster, and (2) for any loans or portions of loans in excess of that amount, the interest rate will be that prevailing in the private market for similar loans, as determined by the Secretary. All such loans shall be repayable at such times as the Secretary may determine, taking into account the purposes of the loan and the nature and effect of the disaster, but not later than provided for loans for similar purposes under subchapters I and II of this chapter, and upon the full personal liability of the borrower and upon the best security available, as the Secretary may prescribe: *Provided,* That the security is adequate to assure repayment of the loans; except that if such security is not available because of the disaster, the Secretary shall (i) accept as security such collateral as is available, a portion or all of which may have depreciated in value due to the disaster and which in the opinion of the Secretary, together with his confidence in the repayment ability of the applicant, is adequate security for the loan, and (ii) make such loan repayable at such times as he may determine, not later than that provided under subchapters I and II of this chapter, as justified by the needs of the applicant: *Provided further,* That for any disaster occurring after January 1, 1975, the Secretary, if the loan is for a purpose described in subchapter II of this chapter, may make the loan repayable at the end of a period of more than seven years, but not more than twenty years, if the Secretary determines that the need of the loan applicant justifies such a longer repayment period: *Provided further,* That notwithstanding the provisions of any other law, any loan made by the Small Business Administration in connection with a disaster occurring on or after August 5, 1975 under section 636(b) (1), (2), or (4) of Title 15 shall bear interest at the rate determined in the first paragraph following section 636(b)(8) of Title 15 for loans under paragraphs (3), (5), (6), (7), or (8) of section 636(b) of Title 15. (As amended Pub. L. 93–24, § 4, Apr. 20, 1973, 87 Stat. 25; Pub. L. 94–68, § 5, Aug 5, 1975, 89 Stat. 381.)

AMENDMENTS

1975—Pub. L. 94–68 made the existing rate of 5 per cent applicable to loans up to the amount of the actual loss caused by the disaster, added provisions that for loans or portions of loans in excess of that amount the interest rate will be that prevailing in the private market for similar loans, as determined by the Secretary, and added provisos relating to security, disasters occurring after Jan. 1, 1975, and loans made by Small Business Administration.

1973—Pub. L. 93–24 substituted "5" for "3" per centum.

SMALL BUSINESS DISASTER LOANS; INTEREST RATE; CANCELLATION OF LOANS

Loans by Small Business Administration in connection with any disaster occuring on or after Apr. 20, 1973 made under section 636(b)(1), (2), or (4) of Title 15, as subject to interest rate determined under this section and prohibition against cancellation of such loan under any provision of law, see section 9 of Pub. L. 93–24, set out as a note under section 636 of Title 15, Commerce and Trade.

§ 1965. Delegation of authority to State Directors of the Farmers Home Administration to make emergency loans.

The Secretary may delegate authority to any State director of the Farmers Home Administration to make emergency loans in any area within a State of the United States, Puerto Rico, or the Virgin Islands on the same terms and conditions set out in section 1961(a) of this title without any formal area designation being made: *Provided*, That the State director finds that a natural disaster has substantially affected twenty-five or less farming, ranching, or aquaculture operations in the area. (As amended Pub. L. 94–68, § 6, Aug. 5, 1975, 89 Stat. 382.)

AMENDMENTS

1975—Pub. L. 94–68 substituted provisions relating to delegation of authority to State director of the Farmers Home Administration to make loans without formal area designation for provisions authorizing the Secretary to make such loans to persons suffering isolated production losses and to indebted borrowers. See section 1970 of this title.

§ 1966. Emergency Credit Revolving Fund utilization.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1929 of this title.

§ 1968. Insurance of loans.

Loans meeting the requirements of this subchapter and any amendatory or supplementary Act may be insured, or made to be sold and insured, in accordance with and subject to sections 1928 and 1929 and the last sentence of section 1927 of this title: *Provided*, That loans made under this section shall not be included in applying the $500,000,000 limitation in section 1929(f)(1) of this title. (Pub. L. 87–128, title III, § 328, as added Pub. L. 92–173, Nov. 24, 1971, 85 Stat. 491, and amended Pub. L. 93–24, § 5, Apr. 20, 1973, 87 Stat. 25.)

AMENDMENTS

1973—Pub. L. 93–24 substituted "$500,000,000" for "$100,000,000".

§ 1969. Repealed. Pub. L. 93–24, § 1, Apr. 20, 1973, 87 Stat. 24.

Section, Pub. L. 87–128, title III, § 328, as added Pub. L. 92–385, § 5, Aug. 16, 1972, 86 Stat. 557, provided for emergency loans for major and natural disasters occurring between June 30, 1971, and July 1, 1973, providing in: subsec. (a) for cancellation of existing loans and the considerations in making grants, loans, and refinancing of loans; subsec. (b) for loans for loss or damage to agricultural crops; subsec. (c) for amount of loans and interest rates; subsec. (d) for availability of benefits irrespective of age; subsec. (e) for availability of benefits irrespective of approval date; and subsec. (f) for report to Congress.

LOANS TO ELIGIBLE APPLICANTS IN AREAS DETERMINED AS NATURAL DISASTER AREAS AFTER JAN. 1, 1972, AND BEFORE DEC. 27, 1972; TIME FOR ACCEPTANCE OF APPLICATIONS

Section 8 of Pub. L. 93–24 provided that: "Notwithstanding the repeal herein of section 5 of Public Law 92–385 [this section], and notwithstanding any other provision of law, the Secretary of Agriculture shall make loans in accordance with the provisions of section 5 of Public Law 92–385 [this section] to eligible applicants in natural disaster areas determined or designated by the Secretary of Agriculture where such determination or designation had been made after January 1, 1972 and prior to December 27, 1972. The authority to accept applications for such loans shall expire 18 days after the effective date of this Act [Apr. 20, 1973]."

CONTINUATION OF SECRETARY'S AUTHORITY WITH RESPECT TO NATURAL DISASTERS OCCURRING AFTER DEC. 26, 1972, AND PRIOR TO APR. 20, 1973.

Pub. L. 93–237, § 4, Jan. 2, 1974, 87 Stat. 1024, provided that: "Notwithstanding the provisions of Public Law 93–24 [which repealed this section], the Secretary of Agriculture shall continue to exercise his authority with respect to natural disasters which occurred after December 26, 1972, but prior to April 20, 1973, in accordance with the provisions of section 5 of Public Law 92–385 [this section] as such section was in effect prior to April 20, 1973."

§ 1970. Eligibility for assistance based on production loss.

An applicant seeking financial assistance based on production losses must show that a single enterprise which constitutes a basic part of his farming, ranching, or aquaculture operation has sustained at least a 20 per centum loss of normal per acre or per animal production as a result of the disaster. (Pub. L. 87–128, title III, § 329, as added Pub. L. 94–68, § 7, Aug. 5, 1975, 89 Stat. 382.)

§ 1971. Additional emergency loans.

Subsequent loans, to continue the farming, ranching, or aquaculture operation may be made under this subchapter on an annual basis, for not to exceed five additional years, to eligible borrowers, at the prevailing rate of interest in the private market for similar loans as determined by the Secretary, when the financial situation of the farming, ranching, or aquaculture operation has not improved sufficiently to permit the borrower to obtain such financing from other sources. (Pub. L. 87–128, title III, § 330, as added Pub. L. 94–68, § 8, Aug. 5, 1975, 89 Stat. 382.)

SUBCHAPTER IV.—ADMINISTRATIVE PROVISIONS

§ 1981. Farmers Home Administration; appointment and compensation of Administrator; transfer of powers, duties and assets pertaining to agricultural credit; powers of Secretary of Agriculture.

For the purposes of this chapter and for the administration of assets under the jurisdiction of the Secretary of Agriculture pursuant to the Farmers Home Administration Act of 1946, as amended, the Bankhead-Jones Farm Tenant Act, as amended, the Act of August 28, 1937, as amended, the Act of April 6, 1949, as amended, the Act of August 31, 1954, as amended, and the power and duties of the Secretary under any other Act authorizing agricultural credit, the Secretary may assign and transfer such powers, duties, and assets to the Farmers Home Administration, to be headed by an Administrator, appointed by the President, by and with the advice and consent of the Senate, without regard to the civil service laws or chapter 51 and subchapter III of chapter 53 of Title 5, who shall receive basic compensation as provided by law for that office.

The Secretary may—

(a) administer his powers and duties through such national, area, State, or local offices and employees in the United States and in Puerto Rico and the Virgin Islands as he determines to be necessary and may authorize an office to serve the area composed of two or more States if he

determines that the volume of business in the area is not sufficient to justify separate State offices, and until January 1, 1975, make contracts for services incident to making, insuring, collecting, and servicing loans and property as determined by the Secretary to be necessary for carrying out the purposes of this chapter; (and the Secretary shall prior to June 30, 1974, report to the Congress through the President on the experience in using such contracts, together with recommendations for such legislation as he may see fit);

* * * * *

(d) compromise, adjust, or reduce claims, and adjust and modify the terms of mortgages, leases, contracts, and agreements entered into or administered by the Farmers Home Administration under any of its programs, as circumstances may require, but compromises, adjustments, or reductions of claims of $15,000 or more shall not be made, without the approval of the Administrator: *Provided, however,* That—

* * * * *

Provided further, That no such compromise, adjustment, or reduction shall be made hereunder after the claim has been referred to the Attorney General unless agreed to by the Attorney General;

(e) collect all claims and obligations arising or administered under this chapter, or under any mortgage, lease, contract, or agreement entered into or administered pursuant to this chapter and, if in his judgment necessary and advisable, pursue the same to final collection in any court having jurisdiction;

(f) Release mortgage and other contract liens if it appears that they have no present or prospective value or that their enforcement likely would be ineffectual or uneconomical;

(g) Obtain fidelity bonds protecting the Government against fraud and dishonesty of officers and employees of the Farmers Home Administration in lieu of faithful performance of duties bonds under section 14 of Title 6, and regulations issued pursuant thereto, but otherwise in accordance with the provisions thereof;

(h) Not require borrowers to pay interest accrued after December 31, 1972, on interest which is not more than 90 days overdue on any loan held or insured by the Farmers Home Administration;

(i) Consent to the transfer of property securing any loan or financed by any loan or grant made, insured, or held by the Secretary under this chapter, or the provisions of any other law administered by the Farmers Home Administration, upon such terms as he deems necessary to carry out the purpose of the loan or grant or to protect the financial interest of the Government.

(As amended Pub. L. 92–419, title I, § 124, Aug. 30, 1972, 86 Stat. 665.)

REFERENCES IN TEXT

In the original "this chapter" read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended. For distribution of such title in the Code, see Short Title note under section 1921 of this title.

The civil service laws, referred to in the opening par., are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that Title.

Section 14 of title 6, referred to in par. (g), was repealed by Pub. L. 92–310, title II, § 203(1), June 6, 1972, 86 Stat. 202. For present provisions relating to surety bonds of Federal personnel, see section 1201 et seq. of title 31, Money and Finance.

CODIFICATION

In the opening par., "chapter 51 and subchapter III of chapter 53 of Title 5" was substituted for "the Classification Act of 1949, as amended" on authority of section 7(b) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1972—Par. (a). Pub. L. 92–419, § 124(1), authorized the Secretary of Agriculture, until Jan. 1, 1975, to make contracts for services incident to making, insuring, collecting, and servicing loans and property as determined by the Secretary to be necessary for carrying out the purposes of this chapter, and required the Secretary, prior to June 30, 1974, to report to Congress through the President on the experience in using such contracts, together with recommendations for such legislation as he may see fit.

Pars. (d)–(1). Pub. L. 92–419, § 124(2), substituted a semicolon for a period at end of lettered pars. (d), (e) and (f) and added pars. (g) to (i).

§ 1982. County committees.

REFERENCES IN TEXT

In the original "this chapter" read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended. For distribution of such title in the Code, see Short Title note under section 1921 of this title.

§ 1983. Special conditions and limitations on loans.

In connection with loans made or insured under this chapter, the Secretary shall require—

(a) the applicant to certify in writing, and the Secretary shall determine, that he is unable to obtain sufficient credit elsewhere to finance his actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time;

(b) except for loans under sections 1926, 1932, 1944 and 1961(b)(2) of this title, the county committee to certify in writing that the applicant meets the eligibility requirements for the loan, and has the character, industry, and ability to carry out the proposed operations, and will, in the opinion of the committee, honestly endeavor to carry out his undertakings and obligations; and for loans under section 1961(b)(2) of this title the Secretary shall require the recommendation of the county committee as to the making or insuring of the loan;

* * * * *

(As amended Pub. L. 92–419, title I, §§ 118(b), 125, 126, Aug. 30, 1972, 86 Stat. 663, 666.)

REFERENCES IN TEXT

In the original "this chapter" read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended. For distribution of such title in the Code, see Short Title note under section 1921 of this title.

AMENDMENTS

1972—Par. (a). Pub. L. 92–419, § 125, inserted ", and the Secretary shall determine," after "in writing".

Par. (b). Pub. L. 92–419, §§ 118(b), 126, inserted reference to section 1932 of this title and substituted "section 1961(b)(2) of this title" for "said sections", respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1922, 1932, 1969 of this title.

§ 1984. Taxation.

REFERENCES IN TEXT

In the original "this chapter" read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended. For distribution of such title in the Code, see Short Title note under section 1921 of this title.

§ 1985. Security servicing; operation or lease of realty; disposition of surplus property; conveyance of complete interest of United States; easements; condemnations.

* * * * *

(c) The Secretary may determine whether real property administered under this chapter is suitable for disposition to persons eligible for assistance under the provisions of any law administered by the Farmers Home Administration. Any property which the Secretary determines to be suitable for such purposes shall, whenever practicable, be sold by the Secretary as expeditiously as possible to such eligible persons in a manner consistent with such provisions. Real property which is not determined suitable for sale to such eligible persons or which has not been purchased by such persons within a period of three years from the date of acquisition, shall be sold by the Secretary after public notice at public sale and, if no acceptable bid is received then by negotiated sale, at the best price obtainable for cash or on secured credit without regard to the laws governing the disposition of excess or surplus property of the United States. The terms of such sale shall require an initial downpayment and the remainder of the sales price payable in installments with interest on unpaid balance at the rate determined by the Secretary, but not in any event at rates and terms more favorable than those legally permissible for eligible borrowers. Any conveyances under this section shall include all of the interest of the United States, including mineral rights.

* * * * *

(As amended Pub. L. 92–419, title I, § 127, Aug. 30, 1972, 86 Stat. 666.)

REFERENCES IN TEXT

In the original "this chapter" read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended. For distribution of such title in the Code, see Short Title note under section 1921 of this title.

AMENDMENTS

1972—Subsec. (c). Pub. L. 92–419 substituted "the provisions of any law administered by the Farmers Home Administration" for "subchapter I of this chapter" in first sentence and "such provisions" for "the provisions of subchapter I of this chapter" in second sentence, deleted from fourth sentence initial minimum 20 per centum downpayment requirement and provision for payment of remainder in not more than five annual installments, and provided in such fourth sentence for interest rates and terms not more favorable than legally permissible for eligible borrowers.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1929, 1929a of this title.

§ 1986. Conflicts of interests.

REFERENCES IN TEXT

In the original "this chapter" read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended. For distribution of such title in the Code, see Short Title note under section 1921 of this title.

§ 1988. Appropriations.

REFERENCES IN TEXT

In the original "this chapter" read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended. For distribution of such title in the Code, see Short Title note under section 1921 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1929 of this title.

§ 1989. Rules and regulations; delegation of powers.

REFERENCES IN TEXT

In the original "this chapter" read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended. For distribution of such title in the Code, see Short Title note under section 1921 of this title.

§ 1990. Transfer of lands to Secretary.

REFERENCES IN TEXT

In the original "this chapter" read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended. For distribution of such title in the Code, see Short Title note under section 1921 of this title.

DELEGATION OF FUNCTIONS

Authority of the President under this section in his discretion to transfer to the Secretary of Agriculture any right, interest or title held by the United States in any lands acquired in the program of national defense and no longer needed for that program, and to determine the suitability of the lands to be transferred, for the purposes referred to in this section, delegated to the Administrator of General Services, provided, that the exercise by the Administrator of the authority delegated to him herein shall require the concurrence of the Secretary of Defense as to the absence of further need of the lands for the national defense program, see section 1(15) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 1991. Definitions.

As used in this chapter (1) the term "farmers" shall be deemed to include persons who are engaged in, or who, with assistance afforded under this chapter, intend to engage in, fish farming, (2) the term "farming" shall be deemed to include fish farming, and (3) the term "owner-operator" shall in the State of Hawaii include the lessee-operator of real property in any case in which the Secretary determines that the land cannot be acquired in fee simple by the applicant, adequate security is provided for the loan, and there is a reasonable probability of accomplishing the objectives and repayment of the loan: *Provided*, That item (3) shall be applicable to lessee-operators of Hawaiian Homes Commission lands only when and to the extent that it is possible for such lessee-operators to meet the conditions therein set out, and (4) the word "insure" as used in this chapter includes guarantee, which means to guarantee the payment of a loan originated, held, and serviced by a private financial agency or other lender approved by the Secretary and (5) the term "contract of insurance" includes

a contract of guarantee. (As amended Pub. L. 92–419, title I, § 128(a), Aug. 30, 1972, 86 Stat. 666.)

REFERENCES IN TEXT

In the original "this chapter" read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended. For distribution of such title in the Code, see Short Title note under section 1921 of this title.

AMENDMENTS

1972—Pub. L. 92–419 added items 4 and 5.

§ 1992. Loan limitations.

No loan (other than one to a public body or nonprofit association (including Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups) for community facilities or one of a type authorized by section 1926(a)(1) of this title prior to its amendment by the Rural Development Act of 1972) shall be made by the Secretary either for sale as an insured loan or otherwise under sections 1924(b), 1926(a)(1), 1932, 1942(b), or 1942(c) of this title unless the Secretary shall have determined that no other lender is willing to make such loan and assume 10 per centum of any loss sustained thereon. No contract guaranteeing any such loan by such other lender shall require the Secretary to guarantee more than 90 per centum of the principal and interest on such loan. (Pub. L. 87–128, title III, § 344, as added Pub. L. 92–419, title I, § 129, Aug. 30, 1972, 86 Stat. 667, and amended Pub. L. 94–35, § 2, June 16, 1975, 89 Stat. 214.)

REFERENCES IN TEXT

For statutory changes to section 1926(a)(1) of this title by the Rural Development Act of 1972, referred to in the text, see 1972 Amendment note for section 104 of Pub. L. 92–419, set out under section 1926 of this title.

AMENDMENTS

1975—Pub. L. 94–35 substituted "guaranteed more than 90 per centum of the principal and interest on such loan" for "participate in more than 90 per centum of any loss sustained thereon".

§ 1993. Testimony before Congressional Committees.

On or before February 15 of each calendar year beginning with calendar year 1976, or such other date as may be specified by the appropriate Committee, the Secretary of Agriculture shall testify before the Senate Committee on Agriculture and Forestry and the House Committee on Agriculture and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year for the purposes authorized in this chapter, and of the amounts estimated to be utilized during such fiscal year from the Agricultural Credit Insurance Fund and the Rural Development Insurance Fund. (Pub. L. 87–128, title III, § 345, as added Pub. L. 94–68, § 9, Aug. 5, 1975, 89 Stat. 382.)

Chapter 51.—FOOD STAMP PROGRAM

Sec.
2026. Purchase with coupons of hunting and fishing equipment for procuring food by members of eligible households living in Alaska; rules and regulations [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 section 5179; title 43 section 1626.

§ 2012. Definitions.

As used in this chapter—

• • • • •

(b) The term "food" means any food or food product for home consumption except alcoholic beverages and tobacco and shall also include seeds and plants for use in gardens to produce food for the personal consumption of the eligible household.

• • • • •

(e) The term "household" shall mean a group of related individuals (including legally adopted children and legally assigned foster children) or non-related individuals over age 60 who are not residents of an institution or boarding house, but are living as one economic unit sharing common cooking facilities and for whom food is customarily purchased in common. The term "household" shall also mean (1) a single individual living alone who has cooking facilities and who purchases and prepares food for home consumption, (2) an elderly person who meets the requirements of section 2019(h) of this title, or (3) any narcotics addict or alcoholic who lives under the supervision of a private nonprofit organization or institution for the purpose of regular participation in a drug or alcoholic treatment and rehabilitation program. No individual who receives supplemental security income benefits under title XVI of the Social Security Act shall be considered to be a member of a household or an elderly person for any purpose of this chapter for any month if such person receives for such month, as part of his supplemental security income benefits or payments described in section 1382e(a) of Title 42 (if any), an amount equal to the bonus value of food stamps (according to the Food Stamp Schedule effective for July 1973) in addition to the amount of assistance such individual would be entitled to receive for such month under the provisions of the plan of the State approved under title I, X, XIV, or XVI, as appropriate, in effect for December 1973, assuming such plan were in effect for such month and such individual were aged, blind, or disabled, as the case may be, under the provisions of such State plan or under Public Law 92–603 as amended. The Secretary of Health, Education, and Welfare shall issue regulations for the implementation of the foregoing sentence after consultation with the Secretary of Agriculture. Residents of federally subsidized housing for the elderly, built under either section 1701q of Title 12, or section 1715z–1 of Title 12 shall not be considered residents of an institution or boarding house for purposes of eligibility for food stamps under this chapter.

(f) The term "retail food store" means an establishment, including a recognized department thereof, or a house-to-house trade route which sells food to households for home consumption. It shall also mean a political subdivision or a private nonprofit organization or institution that meets the requirements of section 2019(h) or 2019(i) of this title.

• • • • •

(h) The term "State agency," with respect to any State, means the agency of State government which is designated by the Secretary for purposes of carrying out this chapter in such State.

* * * * *

(n) The term "drug addiction or alcoholic treatment and rehabilitation program" means any drug addiction or alcoholic treatment and rehabilitation program conducted by a private nonprofit organization or institution which is certified by the State agency or agencies designated by the Governor as responsible for the administration of the State's programs for alcoholics and drug addicts pursuant to Public Law 91–616 "Comprehensive Alcohol Abuse and Alcohol Prevention, Treatment, and Rehabilitation Act" and Public Law 92–255 "Drug Abuse Office and Treatment Act of 1972" as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics.

(As amended Pub. L. 92–603, title IV, § 411(a), (b) Oct. 30, 1972, 86 Stat. 1491; Pub. L. 93–86, § 3(a)–(c), (*l*), (o), (p), Aug. 10, 1973, 87 Stat. 246, 248, 249; Pub. L. 93–125, § 1(h), Oct. 18, 1973, 87 Stat. 450.)

DEFINITION OF "HOUSEHOLD" FOR PERIOD COMMENCING JANUARY 1, 1974

Pub. L. 93–233, § 8(a), Dec. 30, 1973, 87 Stat. 956, as amended by Pub. L. 93–335, § 1(a), (b), July 8, 1974, 88 Stat. 291; Pub. L. 94–44, § 3, June 28, 1975, 89 Stat. 235, provided that, effective for the 30-month period beginning Jan. 1, 1974, section 3(e) of the Food Stamp Act of 1964 [subsec. (e) of this section], should read as it did before amendment by Pub. L. 92–603 and Pub. 93–86 but with the addition of a new sentence at the end, and that section 3(b) of Pub. L. 93–86, which had substituted provisions relating to the treatment of individuals receiving supplemental security income benefits under title XVI of the Social Security Act for provisions relating to the treatment of persons eligible to receive supplemental security income benefits under title XVI of the Social Security Act, should also not be effective for the same 30-month period. The resulting subsec. (e) reads as follows:

"(e) The term 'household' shall mean a group of related individuals (including legally adopted children and legally assigned foster children) or non-related individuals over age 60 who are not residents of an institution or boarding house, but are living as one economic unit sharing common cooking facilities and for whom food is customarily purchased in common. The term 'household' shall also mean (1) a single individual living alone who has cooking facilities and who purchases and prepares food for home consumption, or (2) an elderly person who meets the requirements of section 2019(h) of this title. For the 30-month period beginning January 1, 1974 no individual, who receives supplemental security income benefits under title XVI of the Social Security Act [section 1381 et seq. of Title 42], State supplementary payments described in section 1382e of Title 42, or payments of the type referred to in section 212(a) of Public Law 93–66 [set out as a note under section 1382 of Title 42], shall be considered to be a member of a household or an elderly person for purposes of this chapter for any month during such period, if, for such month, such individual resides in a State which provides State supplementary payments (A) of the type described in section 1382e(a) of Title 42 and (B) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps."

REFERENCES IN TEXT

Title XVI of the Social Security Act, and title I, X, XIV, or XVI, referred to subsec. (e) are classified to subchapter XVI and subchapter I, X, XIV, or XVI of chapter 7 of Title 42, The Public Health and Welfare, respectively.

Pub. L. 92–603, as amended, referred to in subsec. (e), is the Social Security Amendments of 1972, Pub. L. 92–603, Oct. 30, 1972, 86 Stat. 1329. For distribution of such Act in this Code, see Short Title note set out under section 401 of Title 42.

Pub. L. 91–616 "Comprehensive Alcohol Abuse and Alcohol Prevention Treatment, and Rehabilitation Act", referred to in subsec. (n), is classified to section 4551 et seq. of Title 42.

Pub. L. 92–255 "Drug Abuse Office and Treatment Act of 1972", referred to in subsec. (n), is classified to section 1101 et seq. of Title 21, Food and Drugs.

AMENDMENTS

1973—Subsec. (b). Pub. L. 93–86, § 3(*l*), substituted "home" for "human" and substituted provisions including in the definition of "food" seeds and plants for use in gardens to produce food for the personal consumption of the eligible household, for provisions excluding from such definition foods identified on the package as imported and imported meat and meat products.

Subsec. (e). Pub. L. 93–125 substituted "foregoing" for "foreoging".

Pub. L. 93–86, § 3(a), (b), (p), added provision of cl. (3) relating to inclusion of narcotic addict or alcoholic within definition of "household" and provision relating to residents of federally subsidized housing for the elderly, and substituted provisions relating to the treatment of individuals receiving supplemental security income benefits under subchapter XVI of chapter 7 of Title 42, for provisions relating to the treatment of persons eligible to receive supplemental security income benefits under subchapter XVI of chapter 7 of Title 42.

Subsec. (f). Pub. L. 93–86, § 3(o), added references to nonprofit institution and section 2019(i) of this title.

Subsec. (n). Pub. L. 93–86, § 3(c), added subsec. (n).

1972—Subsec. (e). Pub. L. 92–603, § 411(a), added provision that persons eligible or would be eligible to receive supplemental security income benefits under sections 1381 to 1383c of Title 42, may not be considered as members of a household or elderly persons under this chapter.

Subsec. (h). Pub. L. 92–603, § 411(b), substituted provisions defining State agency as the agency designated by the Secretary for carrying out this chapter in such state, for provisions defining it as the agency having the responsibility for the administration of the federally aided public assistance program.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 411(a) of Pub. L. 92–603 provided in part that amendment of subsec. (e) of this section is effective January 1, 1974.

Section 411(h) of Pub. L. 92–603 provided that: "Except as otherwise provided in this section, the amendments made by this section [amending subsection(h) of this section and sections 2019 and 2023 of this title] shall take effect on January 1, 1973".

Amendment of section 8(a)(1) and (2) of Pub. L. 93–233 by section 1(a) and (b) of Pub. L. 93–335, effective

July 1, 1974, see section 1(c) of Pub. L. 93-335, set out as a note under section 1382 of Title 42, The Public Health and Welfare.

ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS DURING PRESCRIBED PERIOD BEGINNING JAN. 1, 1974

Provisions respecting eligibility of supplemental security income recipients for food stamps during prescribed period beginning Jan. 1, 1974, see section 8(c) of Pub. L. 93-233, Dec. 31, 1974, 87 Stat. 957, set out as a note under section 1832e of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2024 of this title.

§ 2014. Eligibility standards.

* * * * *

(b) Uniform national standards; minimum criteria; payments in kind received from an employer by household members; income tax dependency claims; temporary emergency standards for duration of emergency; special standards for Puerto Rico, Guam and Virgin Islands.

The Secretary, in consultation with the Secretary of Health, Education, and Welfare, shall establish uniform national standards of eligibility for participation by households in the food stamp program and no plan of operation submitted by a State agency shall be approved unless the standards of eligibility meet those established by the Secretary. The standards established by the Secretary, at a minimum shall prescribe the amounts of household income and other financial resources, including both liquid and nonliquid assets, to be used as criteria of eligibility: *Provided,* That such standards shall take into account payments in kind received from an employer by members of a household, if such payments are in lieu of or supplemental to household income: *Provided further,* That such payments in kind shall be limited only to housing provided by such employer to such employee and shall be the actual value of such housing but in no event shall such value be considered to be in excess of the sum of $25.00 per month. Any household which includes a member who has reached his eighteenth birthday and who is claimed as a dependent child for Federal income tax purposes by a taxpayer who is not a member of an eligible household, shall be ineligible to participate in any food stamp program established pursuant to this chapter during the tax period such dependency is claimed and for a period of one year after expiration of such tax period. The Secretary may also establish temporary emergency standards of eligibility for the duration of the emergency, without regard to income and other financial resources, for households that are the victims of a mechanical disaster which disrupts the distribution of coupons, and for households that are victims of a disaster which disrupted commercial channels of food distribution when he determines that such households are in need of temporary food assistance, and that commercial channels of food distribution have again become available to meet the temporary food needs of such households: *Provided,* That the Secretary shall in the case of Puerto Rico, Guam, and the Virgin Islands, establish special standards of eligibility and coupon allotment schedules which reflect the average per capita income and cost of obtaining a nutritionally adequate diet in Puerto Rico and the respective territories; except that in no event shall the standards of eligibility or coupon allotment schedules so used exceed those in the fifty States.

(c) Employment of able-bodied adults; excepted persons; refusal of work during strike or lockout; definition.

Notwithstanding any other provisions of law, the Secretary shall include in the uniform national standards of eligibility to be prescribed under subsection (b) of this section a provision that each State agency shall provide that a household shall not be eligible for assistance under this chapter if it includes an able-bodied adult person between the ages of eighteen and sixty-five (except mothers or other members of the household who have the responsibility of care of dependent children or of incapacitated adults, bona fide students in any accredited school or training program, or persons employed and working at least 30 hours per week) who either (a) fails to register for employment at a State or Federal employment office or, when impractical, at such other appropriate State or Federal office designated by the Secretary, or (b) has refused to accept employment or public work at not less than (i) the applicable State minimum wage, (ii) the applicable Federal minimum wage, (iii) the applicable wage established by a valid regulation of the Federal Government authorized by existing law to establish such regulations, or (iv) $1.30 per hour if there is no applicable wage as described in (i), (ii), or (iii) above. Refusal to work at a plant or site subject to a strike or a lockout for the duration of such strike or lockout shall not be deemed to be a refusal to accept employment. For the purposes of this section, the term "able-bodied adult person" shall not include any narcotics addict or alcoholic who regularly participates, as a resident or nonresident, in any drug addiction or alcoholic treatment and rehabilitation program.

(d) Uniform national standards for households containing any narcotics addict or alcoholic.

The Secretary shall establish uniform national standards of eligibility for households described in section 2012(e)(3) of this title. (As amended Pub. L. 93-86, § 3(d), (e), (g), (h), Aug. 10, 1973, 87 Stat. 246, 247.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93-86, § 3(g), (h), added provisos relating to payments in kind received from an employer by members of a household as bearing upon the promulgation of uniform national standards, provision limiting the authority of the Secretary to establish temporary emergency standards of eligibility to the duration of the emergency, and the provision authorizing such standards for households that are victims of a mechanical disaster disrupting the distribution of coupons.

Subsec. (c). Pub. L. 93-86, § 3(e), added the definition of the term "able-bodied adult person".

Subsec. (d). Pub. L. 93-86, § 3(d), added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 43 section 1626.

§ 2016. Value of coupon allotment.

(a) Cost of nutritionally adequate diet; semiannual adjustments.

The face value of the coupon allotment which State agencies shall be authorized to issue to any

households certified as eligible to participate in the food stamp program shall be in such amount as the Secretary determines to be the cost of a nutritionally adequate diet, adjusted semiannually by the nearest dollar increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics in the Department of Labor to be implemented commencing with the allotments of January 1, 1974, incorporating the changes in the prices of food through August 31, 1973, but in no event shall such adjustments be made for households of a given size unless the increase in the face value of the coupon allotment for such households, as calculated above, is a minimum of $2.00.

* * * * *

(As amended Pub. L. 93–86, § 3(m), Aug. 10, 1973, 87 Stat. 248; Pub. L. 93–125, 11(k), Oct. 18, 1973, 87 Stat. 450.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–125 substituted "for households of a given size unless the increase in the face value" for "for value".

Pub. L. 93–86 substituted provisions relating to the determination of semiannual adjustments in the face value of the coupon allotment for provisions relating to the determination of annual adjustments in such allotment.

FOOD STAMP COUPONS, COST INCREASE SUSPENSION

Pub. L. 94–4, Feb. 20, 1975, 89 Stat. 6, provided: "That, notwithstanding the provisions of section 7(b) of the Food Stamp Act of 1964 (7 U.S.C. 2016(b)) [subsec. (b) of this section], the charge imposed on any household for a coupon allotment under such Act [this chapter] after the date of enactment of this Act [Feb. 20, 1975] and prior to December 30, 1975, may not exceed the charge that would have been imposed on such household for such coupon allotment under rules and regulations promulgated under such Act [this chapter] and in effect on January 1, 1975."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2019, of this title.

§ 2019. Administration of program.

* * * * *

(c) Period of validity of certification upon removal from one political subdivision to another; prohibition against discrimination.

Certification of a household as eligible in any political subdivision shall, in the event of removal which the food stamp program is operating, remain of such household to another political subdivision in valid for participation in the food stamp program for a period of sixty days from the date of such removal. In the certification of applicant households for the food stamp program there shall be no discrimination against any household by reason of race, religious creed, national origin, or political beliefs.

* * * * *

(e) State plan of operation; submission; contents; time for submission and approval.

The State agency of each State desiring to participate in the food stamp program shall submit for approval a plan of operation specifying the manner in which such program will be conducted within the State, the political subdivisions within the State in which the State desires to conduct the program, and the effective dates of participation by each such political subdivision. In addition, such plan of operation shall provide, among such other provisions as may by regulations be required, the following: (1) the specific standards to be used in determining the eligibility of applicant households; (2) that the State agency shall undertake the certification of applicant households in accordance with the general procedures and personnel standards prescribed by the Secretary in the regulations issued pursuant to this chapter, (3) safeguards which restrict the use of disclosure of information obtained from applicant households to persons directly connected with the administration or enforcement of the provisions of this chapter or the regulations issued pursuant to this chapter; (4) for the submission of such reports and other information as from time to time may be required; (5) that the State agency shall undertake effective action, including the use of services provided by other federally funded agencies and organizations, to inform low-income households concerning the availability and benefits of the food stamp program and insure the participation of eligible households; (6) issuance of coupon allotments no less often than two times per month; (7) notwithstanding any other provision of law, the institution of procedures under which any household participating in the program shall be entitled, if it so elects, to have the charges, if any, for its coupon allotment deducted from any grant or payment such household may be entitled to receive under title IV of the Social Security Act and have its coupon allotment distributed to it with such grant or payment; and (8) for the granting of a fair hearing and a prompt determination thereafter to any household aggrieved by the action of a State agency under any provision of its plan of operation as it affects the participation of such household in the food stamp program. In approving the participation of the subdivisions requested by each State in its plan of operation, the Secretary shall provide for an equitable and orderly expansion among the several States in accordance with their relative need and readiness to meet their requested effective dates of participation. The State agency is required to submit, prior to January 1, 1974, for approval, a plan of operation specifying the manner in which such State agency intends to conduct the program in every political subdivision in the State, unless such State agency can demonstrate that for any political subdivision it is impossible or impracticable to extend the program to such subdivision. The Secretary shall make a determination of approval or disapproval of a plan of operation submitted by a State agency in sufficient time to permit institution of such plan by no later than June 30, 1974.

* * * * *

(h) Meal purchases by members of an eligible household sixty years of age or over or an elderly person and his spouse; terms and conditions.

Subject to such terms and conditions as may be prescribed by the Secretary in the regulations issued pursuant to this chapter, members of an eligible household who are sixty years of age or over or an elderly person and his spouse may use coupons issued to them to purchase meals prepared for and delivered to them by a political subdivision or by a private nonprofit organization which: (1) is not receiving federally donated foods from the United

States Department of Agriculture for use in the preparation of such meals; (2) is operated in a manner consistent with the purposes of this chapter; and (3) is recognized as a tax exempt organization by the Internal Revenue Service: *Provided*, That household members or elderly persons to whom meals are delivered are housebound, feeble, physically handicapped, or otherwise disabled, to the extent that they are unable to adequately prepare all of their meals. Meals served pursuant to this subsection shall be deemed "food" for the purposes of this chapter. Subject to such terms and conditions as may be prescribed by the Secretary, in the regulations issued pursuant to this chapter, members of an eligible household who are sixty years of age or over or elderly persons and their spouses may also use coupons issued to them to purchase meals prepared by senior citizens' centers, apartment buildings occupied primarily by elderly persons, any public or nonprofit private school which prepares meals especially for elderly persons, any public or nonprofit private eating establishment which prepares meals especially for elderly persons during special hours, and any other public or nonprofit private establishment approved for such purpose by the Secretary. When an appropriate State or local agency contracts with a private establishment to offer, at concessional prices, meals prepared especially for elderly persons during regular or special hours, the Secretary shall permit members of eligible households who are sixty years of age or over or elderly persons and their spouses to use coupons issued to them to purchase such meals.

(i) Meal purchases by members of an eligible household who are narcotics addicts or alcoholics; terms and conditions.

Subject to such terms and conditions as may be prescribed by the Secretary in the regulations pursuant to this chapter, members of an eligible household who are narcotics addicts or alcoholics and regularly participate in a drug addiction or alcoholic treatment and rehabilitation program may use coupons issued to them to purchase food prepared for or served to them during the course of such program by a private nonprofit organization or institution which meets requirements (1), (2), and (3) of subsection (h) above. Meals served pursuant to this subsection shall be deemed "food" for the purposes of this chapter.

* * * * *

(As amended Pub. L. 92-603, title IV, § 411(c)-(e), Oct. 30, 1972, 86 Stat. 1491; Pub. L. 93-86, § 3(f), (i), (k), Aug. 10, 1973, 87 Stat. 247, 248; Pub. L. 93-125, § 1(j), Oct. 18, 1973, 87 Stat. 450.)

REFERENCES IN TEXT

Title IV of the Social Security Act, referred to in subsec. (e), is classified to subchapter IV of chapter 7 of Title 42, The Public Health and Welfare.

AMENDMENTS

1973—Subsec. (e). Pub. L. 93-86, § 3(i), added cls. (6) and (7), designated former cl. (6) as (8), and added provision relating to the time for submission of the plan of operation to the Secretary for approval and the time for the Secretary to make a determination of approval or disapproval of such plan.

Subsec. (h). Pub. L. 93-125 added "members of" following "the Secretary shall permit".

Pub. L. 93-86, § 3(k), added provisions authorizing meal purchases from senior citizens' centers, apartment buildings occupied primarily by elderly persons, any public or nonprofit private school which prepares meals especially for elderly persons, any public or nonprofit private eating establishment which prepares meals especially for elderly persons during special hours, and any other public or nonprofit private establishment approved for such purpose by the Secretary.

Subsec. (i). Pub. L. 93-86, § 3(f), added subsec. (i).

1972—Subsec. (c). Pub. L. 92-603, § 411(c), struck out provisions relating to the filing of an affidavit by the household for certification of eligibility for public assistance.

Subsec. (e). Pub. L. 92-603, § 411(d), (e), substituted "prescribed by the Secretary in the regulations issued pursuant to this chapter" for "used by them in the certification of applicants for benefits under the federally aided public assistance programs" in cl. (2), and struck out provisions requiring the state agency to institute procedures under which any household participating in the food stamp program shall be entitled to have the charges for its coupon allotment deducted from grants or payments such household is entitled to receive and have its coupon allotment distributed to it with such grant or payment.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-603 effective Jan. 1, 1973, see section 411(h) of Pub. L. 92-603, set out as a note under section 2012 of this title.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Agriculture under subsec. (e)(2) of this section transferred to United States Civil Service Commission, see section 4728(a)(1) of Title 42, The Public Health and Welfare.

EXTENSION UNTIL OCTOBER 1, 1976, OF FINAL DATE FOR COMPLIANCE WITH REGULATIONS GOVERNING USE OF FOOD STAMPS BY AFDC FAMILIES

Pub. L. 94-182, title II, § 201, Dec. 31, 1975, 89 Stat. 1056, provided that: "Notwithstanding any other provision of law, the final date for compliance with regulations in implementation of section 10(e)(7) of the Food Stamp Act of 1964, as amended [subsec. (e)(7) of this section], may be extended until October 1, 1976."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2012, 2023, 2024 of this title.

§ 2023. Violations and enforcement; issuance or presentment for redemption of coupons; penalties; coupons as obligations of United States; affidavit as basis for fraud only.

* * * * *

(e) Repealed. Pub. L. 92-603, title IV, § 411(f), Oct. 30, 1972, 86 Stat. 1492.

(As amended Pub. L 92-603, title IV, § 411(f), Oct. 30, 1972, 86 Stat. 1492.)

AMENDMENTS

1972—Subsec. (e). Pub. L. 92-603 struck out subsec. (e) which provided that no person be charged with violation of this chapter or any other law on the basis of statements or information contained in affidavits filed under section 2019(c) of this title, except for fraud.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of section by Pub. L. 92-603 effective Jan. 1, 1973, see section 411(h) of Pub. L. 92-603, set out as a note under section 2012 of this title.

§ 2024. State financing of administrative costs; Federal payments to State agencies; reports on effectiveness of administration of Food Stamp Program; qualified personnel.

(a) Except as otherwise provided in this section, each State shall be responsible for financing, from funds available to the State or political subdivision thereof, the costs of carrying out the administrative

responsibilities assigned to it under the provisions of this chapter.

(b) The Secretary is authorized to pay to each State agency an amount equal to 50 per centum of all administrative costs, including, but not limited to, the cost of (1) the certification of households; (2) the acceptance, storage, and protection of coupons after their delivery to receiving points within the States; (3) the issuance of such coupons to eligible households; (4) the outreach and fair hearing requirements of section 2019 of this title; and (5) the control and accounting of coupons: *Provided*, That each State shall, from time to time at the request of the Secretary, report to the Secretary on the effectiveness of its administration of the program and no such payment shall be made to any State unless the Secretary is satisfied pursuant to regulations which he shall issue that an adequate number of qualified personnel are employed by the State in the program to administer the program efficiently and effectively. (As amended Pub. L. 93–347, § 2, July 12, 1974, 88 Stat. 341.)

AMENDMENTS

1974—Pub. L. 93–347 authorized the Secretary of Agriculture to pay each State agency 50 percent of all the State agency's costs in administering the Food Stamp Program and required that each State make reports from time to time at the request of the Secretary of Agriculture on the effectiveness of the administration of the Food Stamp Program in that State.

§ 2025. Authorization of appropriations; limitation of coupon value; deposit of funds; nature of expenditures; reports to Congress.

(a) To carry out the provisions of this chapter, there is hereby authorized to be appropriated not in excess of $75,000,000 for the fiscal year ending June 30, 1965; not in excess of $100,000,000 for the fiscal year ending June 30, 1966; and not in excess of $200,000,000 for the fiscal year ending June 30, 1967; not in excess of $200,000,000 for the fiscal year ending June 30, 1968; not in excess of $315,000,000 for the fiscal year ending June 30, 1969; not in excess of $610,000,000 for the fiscal year ending June 30, 1970; not in excess of $1,750,000 for the fiscal year ending June 30, 1971; and for the fiscal years ending June 30, 1972 through June 30, 1977 such sums as the Congress may appropriate; and not in excess of such sum as may hereafter be authorized by Congress for any subsequent fiscal period. Sums appropriated under the provisions of this chapter shall, notwithstanding the provisions of any other law, continue to remain available until expended. Such portion of any such appropriation as may be required to pay for the value of the coupon allotments issued to eligible households which is in excess of the charges paid by such household for such allotments shall be transferred to and made a part of the separate account created under section 2016(d) of this title. This chapter shall be carried out only with funds appropriated from the general fund of the Treasury for that specific purpose and in no event shall it be carried out with funds derived from permanent appropriations. On or before January 20 of each year, the Secretary shall submit to Congress a report setting forth operations under this chapter during the preceding calendar year and projecting needs for the ensuing calendar year.

* * * * *

(As amended Pub. L. 93–86, § 3(j), Aug. 10, 1973, 87 Stat. 248.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–86 extended authorization of appropriations from June 30, 1973 to June 30, 1977, and added provision relating to the availability of appropriated sums.

§ 2026. Purchase with coupons of hunting and fishing equipment for procuring food by members of eligible households living in Alaska; rules and regulations.

Notwithstanding any other provision of this chapter, members of eligible households living in the State of Alaska shall be permitted in accordance with such rules and regulations as the Secretary may prescribe, to purchase hunting and fishing equipment for the purpose of procuring food for the household except firearms, ammunition, and other explosives, with coupons issued under this chapter if the Secretary determines that (1) such households are located in an area of the State which makes it extremely difficult for members of such households to reach retail food stores, and (2) such households depend to a substantial extent on hunting and fishing for subsistence purposes. (Pub. L. 88–525, § 17, as added Pub. L. 93–86, § 3(n), Aug. 10, 1973, 87 Stat. 248.)

Chapter 52.—FARM LABOR CONTRACTOR REGISTRATION

Sec.
2050a. Civil relief [New].
(a) Federal court jurisdiction.
(b) Representation of complainant; damages; appeals.
(c) Injunction.
(d) Solicitor of Labor representation of Secretary; direction and control of Attorney General.
2050b. Discrimination prohibition; limitations; investigation; appropriate civil relief: back pay or damages [New].
2050c. Recordkeeping [New].
2054. Waiver of rights [New].
2055. Authorization of appropriations [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 29 section 774.

§ 2041. Congressional declaration of policy.

* * * * *

(b) It is therefore the policy of this chapter to remove the impediments, obstructions, and restraints occasioned to the flow of interstate commerce by the activities of such irresponsible contractors by requiring that all persons engaged in the activity of contracting for the services of workers for agricultural employment comply with the provisions of this chapter and all regulations prescribed hereunder by the Secretary of Labor. (As amended Pub. L. 93–518, § 11(d), Dec. 7, 1974, 88 Stat. 1656.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–518 substituted "agricultural employment" for "interstate agricultural employment".

SHORT TITLE

Section 1(a) of Pub. L. 93–518 provided that: "This Act [which enacted sections 2050a to 2050c, 2054, and 2055, and amended sections 2041 to 2046, 2048, and 2053 of this

title] may be cited as the 'Farm Labor Contractor Registration Act Amendments of 1974'."

§ 2042. Definitions.

As used in this chapter—

(a) The term "person" includes any individual, partnership, association, joint stock company, trust, or corporation.

(b) The term "farm labor contractor" means any person, who, for a fee, either for himself, or on behalf of another person, recruits, solicits, hires, furnishes, or transports at any one time in any calendar year migrant workers (excluding members of his immediate family) at any one time in any calendar year for agricultural employment. Such term shall not include—

(1) any nonprofit charitable organization, public or nonprofit private educational institution, or similar organization;

(2) any farmer, processor, canner, ginner, packing shed operator, or nurseryman who personally engages in any such activity for the purpose of supplying migrant workers solely for his own operation;

(3) any full-time or regular employe of any entity referred to in (1) or (2) above who engages in such activity solely for his employer on no more than an incidental basis;

(4) any person who engages in any such activity (A) solely within a twenty-five mile intrastate radius of his permanent place of residence and (B) for not more than thirteen weeks per year;

(5) any person who engages in any such activity for the purpose of obtaining migrant workers of any foreign nation for employment in the United States if the employment is subject to—

(A) an agreement between the United States and such foreign nation; or

(B) an arrangement with the government of any foreign nation under which written contracts for the employment of such workers are provided for and the enforcement thereof is provided for through the United States by an instrumentality of such foreign nation;

(6) any full-time or regular employee of any person holding a certificate of registration under this chapter; or

(7) any common carrier or any full-time regular employee thereof engaged solely in the transportation of migrant workers.

(c) The term "fee" includes any money or other valuable consideration paid or promised to be paid to a person for services as a farm labor contractor.

(d) The term "agricultural employment" means employment in any service or activity included within the provisions of section 203(f) of Title 29, or section 3121(g) of Title 26 and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

* * * * *

(As amended Pub. L. 93–518, §§ 2, 3, Dec. 7, 1974, 88 Stat. 1652, 1653.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–518, § 2, deleted "interstate" preceding "agricultural employment" in first sentence; redesignated former clauses as paragraphs: reenacted provisions of pars. (1) and (2); excluded from term "farm labor contractor" in par. (3) any employee who engages in the described activity solely for his employer on no more than an incidental basis; added par. (4); redesignated former par. (4) as (5) redesignating clauses (A) and (B) as subpars. (A) and (B); and added pars. (6) and (7).

Subsec. (d). Pub. L. 93–518, § 3, deleted "interstate" preceding "agricultural employment", expanded definition of "agricultural employment" to include the handling, planting, drying, packing, packaging, processing freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state, and deleted prior provision which limited the service or activity to one performed by an individual worker who has been transported from one State to another or from any place outside of a State to any place within a State.

§ 2043. Certificate of registration; regular employees of farm labor contractors; period of denial of Federal Employment Service.

* * * * *

(c) No person shall engage the services of any farm labor contractor to supply farm laborers unless he first determines that the farm labor contractor possesses a certificate from the Secretary that is in full force and effect at the time he contracts with the farm labor contractor.

(d) Upon determination by the Secretary that any person knowingly has engaged the services of any farm labor contractor who does not possess such certificate as required by subsection (c) of this section, the Secretary is authorized to deny such person the facilities and services authorized by the Act of June 6, 1933 (29 U.S.C. 49 et seq.), commonly referred to as the Wagner-Peyser Act, for a period of up to three years. (As amended Pub. L. 93–518, § 4, Dec. 7, 1974, 88 Stat. 1653.)

AMENDMENTS

1974—Subsecs. (c), (d). Pub. L. 93–518 added subsecs. (c) and (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2044, 2053 of this title.

§ 2044. Issuance of certificate of registration.

(a) Persons qualified.

The Secretary shall, after appropriate investigation, issue a certificate of registration under this chapter to any person who—

(1) has executed and filed with the Secretary a written application subscribed and sworn to by the applicant containing such information (to the best of his knowledge and belief) concerning his conduct and method of operation as a farm labor contractor as the Secretary may require in order effectively to carry out the provisions of this chapter;

(2) has filed, within such time as the Secretary may prescribe, proof satisfactory to the Secretary of the financial responsibility of the applicant or proof satisfactory to the Secretary of the existence of a policy of insurance which insures such applicant against liability for damages to persons or property arising out of the applicant's ownership of, operation of, or his causing to be operated any vehicle for the transportation of migrant workers

in connection with his business, activities, or operations as a farm labor contractor. In no event shall the amount of such insurance be less than the amount currently applicable to vehicles used in the transportation of passengers in interstate commerce under the Interstate Commerce Act and regulations promulgated pursuant thereto, or amounts offering comparable protection to persons or property from damages arising out of the applicant's ownership of, operation of, or his causing to be operated any vehicle as provided herewith: *Provided,* That the Secretary shall have the discretion to issue regulations requiring insurance in the highest amounts feasible which are less than the amounts currently applicable to vehicles used in the transportation of passengers in interstate commerce under the Interstate Commerce Act and regulations promulgated pursuant thereto, if the Secretary, after due and careful consideration, determines that the insurance coverage in such amounts is not available to farm labor contractors in the same manner and in the same amounts as such coverage is available to other carriers used to transport passengers in interstate commerce;

(3) has filed, within such time as the Secretary may prescribe, a set of his fingerprints;

(4) has filed, under such terms as the Secretary may prescribe, a statement identifying each vehicle to be used by the applicant for the transportation of migrant workers, and all real property to be used by the applicant for the housing of migrant workers, during the period for which registration is sought, along with proof that every such vehicle and all such housing currently conform to all applicable Federal and State safety and health standards to the extent that such vehicle and all such housing are under the applicant's ownership or control; and

(5) has consented to designation of the Secretary as the agent available to accept service of summons in any action against such farm labor contractor, at any and all times during which such farm labor contractor has departed from the jurisdiction in which such action is commenced or otherwise has become unavailable to accept service, under such terms and conditions as are set by the court in which such action had been commenced.

(b) Refusal to issue certificates; suspension; revocation; refusal to renew.

Upon notice and hearing in accordance with regulations prescribed by him, the Secretary may refuse to issue, and may suspend, revoke, or refuse to renew a certificate of registration to any farm labor contractor if he finds that such contractor—

* * * * *

(6) has recruited, employed, or utilized with knowledge, the services of any person, who is an alien not lawfully admitted for permanent residence, or who has not been authorized by the Attorney General to accept employment;

(7) has been convicted of any crime under State or Federal law relating to gambling or to the sale, distribution, or possession of alcoholic liquors in connection with or incident to his activities as a farm labor contractor; or has been convicted of any crime under State or Federal law involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault, with intent to kill, assault which inflicts grievous bodily injury, prostitution, or peonage; where the date of the judgment of conviction of any crime as specified herein has been entered within a period of five years preceding the action of the Secretary under this subsection;

(8) has failed to comply with rules and regulations promulgated by the Interstate Commerce Commission that are applicable to his activities and operations in interstate commerce;

(9) knowingly employs or continues to employ any person to whom subsection (b) of section 2043 of this title applies who has taken any action, except for that listed in paragraph (5) of this subsection, which could be used by the Secretary under this subsection to refuse to issue a certificate of registration;

(10) has failed to comply with any of the provisions of this chapter or any regulations issued hereunder;

(11) is not in fact the real party in interest in any such application or certificate of registration and that the real party in interest is a person, firm, partnership, association, or corporation who previously has been denied a certificate of registration, has had a certificate of registration suspended or revoked, or who does not presently qualify for a certificate or registration; or

(12) has used a vehicle for the transportation of migrant workers, or has used real property for the housing of migrant workers, while such vehicle or real property failed to conform to all applicable Federal and State safety and health standards, to the extent any such vehicle or real property has come within the ownership or control of such farm labor contractor.

* * * * *

(d) Change of address, notice; public central registry; documentation of vehicles for transportation and real property for housing of migrant workers.

Persons issued a certificate of registration under this section shall provide the Secretary a notice of each and every address change within ten days after such change. The Secretary shall maintain a public central registry of all persons issued certificates of registration under this section. Persons issued a certificate of registration under this section shall provide to the Secretary documentation required under subsection (a)(4) of this section applicable to any vehicle which the applicant obtains for use in the transportation of migrant workers and any real property which the applicant obtains or learns will be used for the housing of migrant workers during the period for which the certificate of registration is issued, within ten days after he obtains or learns of the intended use of such vehicle or real property, to the extent that such vehicle or such real property is under the ownership or control of such persons who have been issued certificates of registration. (As amended Pub. L. 93–518, §§ 5–8, Dec. 7, 1974, 88 Stat. 1653–1655.)

AMENDMENTS

1974—Subsec. (a)(2). Pub. L. 93–518, § 6, substituted provisions adopting insurance coverage requirements of Interstate Commerce Act, including proviso for issuance of regulations for coverage in a lesser amount than required under the Act where coverage is not available in higher amounts to farm labor contractors, for prior provisions for insurance coverage in amounts required under State law when conducting business operations therein, including minimum amouts of $5,000 for injury or death of one person, $20,000 for injury or death of many persons in one accident, and $5,000 for property damages or loss to other persons in one accident.

Subsec. (a)(4), (5), Pub. L. 93–518, § 5, added pars. (4) and (5).

Subsec. (b)(6). Pub. L. 93–518, § 7(5), substituted "utilized, with knowledge, the services of any person, who is an alien not lawfully admitted for permanent residence, or who has not been authorized by the Attorney General to accept employment" for "utilized the services of a person with knowledge that such person is violating the provisions of the immigration and nationality laws of the United States".

Subsec. (b)(7). Pub. L. 93–518, § 7(4), included conviction of crime of peonage and limited the convictions to those where date of entry of judgment of conviction of any of the specified crimes was within a period of five years preceding action of the Secretary.

Subsec. (b)(11), (12). Pub. L. 93–518, § 7, added pars. (11) and (12).

Subsec. (d). Pub. L. 93–518, § 8, added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2053 of this title.

§ 2045. Obligations and prohibitions.

Every farm labor contractor shall—

(a) carry his certificate of registration with him at all times while engaging in activities as a farm labor contractor and exhibit the same to all persons with whom he intends to deal in his capacity as a farm labor contractor prior to so dealing and shall be denied the facilities and services authorized by the Act of June 6, 1933 (29 U.S.C. 49 et seq.), upon refusal or failure to exhibit the same;

(b) ascertain and disclose to each worker at the time the worker is recruited the following information to the best of his knowledge and belief: (1) the area of employment, (2) the crops and operations on which he may be employed, (3) the transportation, housing, and insurance to be provided him, (4) the wage rates to be paid him, (5) the charges to be made by the contractor for his services, (6) the period of employment, (7) the existence of a strike or other concerted stoppage, slowdown, or interruption of operations by employees at a place of contracted employment, and (8) the existence of any arrangements with any owner, proprietor, or agent of any commercial or retail establishment in the area of employment under which he is to receive a commission or any other benefit resulting from any sales provided to such commercial or retail establishment from the migrant workers whom he recruits. The disclosure required under this subsection shall be in writing in a language in which the worker is fluent, and written in a manner understandable by such workers on such forms and under such terms and conditions as the Secretary shall prescribe;

(c) upon arrival at a given place of employment, post in a conspicuous place a written statement of the terms and conditions of that employment;

(d) in the event he manages, supervises, or otherwise controls the housing facilities, post in a conspicuous place the terms and conditions of occupancy;

(e) in the event he pays migrant workers engaged in agricultural employment, either on his own behalf or on behalf of another person, keep payroll records which shall show for each worker total earnings in each payroll period, all withholdings from wages, and net earnings. In addition, for workers employed on a time basis, the number of units of time employed and the rate per unit of time shall be recorded on the payroll records, and for workers employed on a piece rate basis, the number of units of work performed and the rate per unit shall be recorded on such records. In addition he shall provide to each migrant worker engaged in agricultural employment with whom he deals in a capacity as a farm labor contractor a statement of all sums paid to him (including sums received on behalf of such migrant worker) on account of the labor of such migrant worker. He shall also provide each such worker with an itemized statement showing all sums withheld by him from the amount he received on account of the labor of such worker, and the purpose for which withheld. He shall additionally provide to the person to whom any migrant worker is furnished all information and records required to be kept by such contractor under this subsection, and all information required to be provided to any migrant worker under this subsection. The Secretary may prescribe appropriate forms for the recording of information required by this subsection;

(f) refrain from recruiting, employing, or utilizing, with knowledge, the services of any person, who is an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment;

(g) promptly pay or contribute when due to the individuals entitled thereto all moneys or other things of value entrusted to the farm labor contractor by any farm operator for such purposes; and

(h) refrain from requiring any worker to purchase any goods solely from such farm labor contractor or any other person.

(As amended Pub. L. 93–518, §§ 9–11(a)–(c), Dec. 7, 1974, 88 Stat. 1655, 1656.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–518, § 9, authorized denial of facilities and services authorized by the Act of June 6, 1933, for refusal or failure to exhibit the certificate of registration.

Subsec. (b). Pub. L. 93–518, § 10, added items (6) to (8) and provision respecting disclosure requirements.

Subsec. (e). Pub. L. 93–518, § 11(b), (c), deleted "interstate" preceding "agricultural employment" in two instances, required the farm labor contractor to provide the person furnished with any migrant worker with all information and records required to be kept by the contractor and all information required to be provided to the migrant worker, and substituted in last sentence "appropriate forms for the recording of information required by this subsection" for "an appropriate form for recording such information".

Subsecs. (f) to (h). Pub. L. 93–518, § 11(a), added subsecs. (f) to (h).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2048, 2050c, 2053 of this title.

§ 2046. Authorization to obtain information; hearings or investigations; subpoenas; oaths or affirmations; evidence; application of sections 49 and 50 of Title 15; identity confidentiality; purpose of enforcement.

The Secretary or his designated representative may investigate and gather data with respect to matters which may aid in carrying out the provisions of this chapter. In any case in which a complaint has been filed with the Secretary regarding a violation of this chapter or with respect to which the Secretary has reasonable grounds to believe that a farm labor contractor has violated any provisions of this chapter, the Secretary or his designated representative may investigate and gather data respecting such case, and may, in connection therewith, enter and inspect such places and such records (and make such transcriptions thereof), question such persons, and investigate such facts, conditions, practices, or matters as may be necessary or appropriate to determine whether a violation of this chapter has been committed. The Secretary may issue subpenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with such investigations. The Secretary may administer oaths and affirmations, examine witnesses, and receive evidence. For the purpose of any hearing or investigation provided for in this chapter, the provisions of sections 49 and 50 of Title 15 (relating to the attendance of witnesses and the production of books, papers, and documents), are made applicable to the jurisdiction, powers, and duties of the Secretary. The Secretary shall conduct investigations in a manner which protects the confidentiality of any complainant or other party who provides information to the Secretary with respect to which the Secretary commences an investigation. The Secretary shall monitor and investigate activities of farm labor contractors in such manner as is necessary to enforce the provisions of this chapter. (As amended Pub. L. 93–518, § 12, Dec. 7, 1974, 88 Stat. 1656.)

AMENDMENTS

1974—Pub. L. 93–518 added provisions respecting issuance of subpenas, administration of oaths and affirmations, examination of witnesses and receipt of evidence, application of sections 49 and 50 of Title 15, identity confidentiality, and enforcement objective.

§ 2048. Penalties.

(a) Criminal penalties for violation of chapter; annual report: inclusion of enforcement activities.

Any farm labor contractor or employee thereof who willfully and knowingly violates any provision of this chapter shall be fined not more than $500, sentenced to a prison term not to exceed one year, or both, and upon conviction for any subsequent violation, shall be punishable by a fine not to exceed $10,000 or sentenced to a prison term not to exceed three years, or both. The Secretary shall report on enforcement of the provisions of this chapter in the annual report of the Secretary required pursuant to section 560 of Title 29. The reporting hereunder shall include, but shall not be limited to, a description of efforts to monitor and investigate the activities of farm labor contractors, the number of persons to whom certificates of registration have been issued, the number of complaints of violation received by the Secretary and their disposition, and the number and nature of any sanctions imposed.

(b) Civil penalties for violation of chapter or regulations; separate violations; assessment procedures: notice and hearing, agency and judicial review, substantial evidence; actions for recovery of assessments, finality of orders; payment of collections into the Treasury.

(1) Any person who commits a violation of this chapter or any regulations promulgated under this chapter, may be assessed a civil money penalty of not more than $1,000 for each violation. The penalty shall be assessed by the Secretary upon written notice, under the procedures set forth herein.

(2) The person assessed shall be afforded an opportunity for agency hearing, upon request made within thirty days after the date of issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of Title 5. The agency determination shall be made by final order subject to review only as provided in paragraph (3). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

(3) Any person against whom an order imposing a civil money penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which he is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed. The findings of the Secretary shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of Title 5.

(4) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the agency, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(5) All penalties collected under authority of this section shall be paid into the Treasury of the United States.

(c) Criminal penalties for section 2045(f) violations, including regulations, respecting failure to obtain, suspension, or revocation of certificates of registration.

Notwithstanding subsections (a) and (b) of this section, any farm labor contractor who commits a violation of section 8045(f) of this title or any regulations promulgated thereunder shall upon conviction be fined not to exceed $10,000 or sentenced to a prison term not to exceed three years, or both, if the person committing such violation has failed to obtain a certificate of registration pursuant to this chapter or is one whose certificate has been sus-

pended or revoked by the Secretary. (As amended Pub. L. 93–518, § 13, Dec. 7, 1974, 88 Stat. 1656.)

AMENDMENTS

1974—Subsec. (a) Pub. L. 93–518 designated existing provisions as subsec. (a), made the penalty provision inapplicable to violation of regulations prescribed under this chapter (now covered in subsecs. (b)(1) and (c) of this section), provided additionally for a prison term not to exceed one year or such term and a fine for first violations, and a fine not to exceed $10,000 or a prison term not to exceed three years, or both for subsequent violations, and for inclusion of certain enforcement activities in the annual report of the Secretary of Labor to Congress.

Subsecs. (b), (c). Pub. L. 93–518 added subsecs. (b) and (c).

§ 2050a. Civil relief.

(a) Federal court jurisdiction.

Any person claming to be aggrieved by the violation of any provision of this chapter or any regulation prescribed hereunder may file suit in any district court of the United States having jurisdiction of the parties without respect to the amount in controversy or without regard to the citizenship of the parties and without regard to exhaustion of any alternative administrative remedies provided herein.

(b) Representation of complainant; damages; appeals.

Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action. If the court finds that the respondent has intentionally violated any provision of this chapter or any regulation prescribed hereunder, it may award damages up to and including an amount equal to the amount of actual damages, or $500 for each violation, or other equitable relief. Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of Title 28.

(c) Injunction.

If upon investigation the Secretary determines that the provisions of this chapter have been violated, he may petition any appropriate district court of the United States for temporary or permanent injunctive relief.

(d) Solicitor of Labor representation of Secretary; direction and control of Attorney General.

Except as provided in section 518(a) of Title 28, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this chapter but all such litigation shall be subject to the direction and control of the Attorney General. (Pub. L. 88–582, § 12, as added Pub. L. 93–518, § 14(a), Dec. 7, 1974, 88 Stat. 1657.)

§ 2050b. Discrimination prohibition; limitations; investigation; appropriate civil relief: back pay or damages.

(a) No person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any migrant worker because such worker has, with just cause, filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter or has testified or is about to testify in any such proceedings or because of the exercise, with just cause, by such worker on behalf of himself or others of any right or protection afforded by this chapter.

(b) Any worker who believes, with just cause, that he has been discriminated against by any person in violation of this section may, within one hundred eighty days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of this section have been violated, he shall bring an action in any appropriate United States district court against such person. In any such action, the United States district courts shall have jurisdiction, for cause shown, to restrain violation of subsection (a) of this section and order all appropriate relief including rehiring or reinstatement of the worker, with back pay, or damages. (Pub. L. 88–582, § 13, as added Pub. L. 93–518, § 14(a), Dec. 7, 1974, 88 Stat. 1658.)

§ 2050c. Recordkeeping.

Any person who is furnished any migrant worker by a farm labor contractor shall maintain all payroll records required to be kept by such person under Federal law, and with respect to migrant workers paid by a farm labor contractor such person shall also obtain from the contractor and maintain records containing the information required to be provided to him by the contractor under section 2045(e) of this title. (Pub. L. 88–582, § 14, as added Pub. L. 93–518, § 14(a), Dec. 7, 1974, 88 Stat. 1658.)

§§ 2051, 2052.

Pub. L. 93–518, § 14(a), Dec. 7, 1974, 88 Stat. 1657, renumbered sections 12 and 13 of Pub. L. 88–582 as 15 and 16 of Pub. L. 88–582.

§ 2053. Rules and regulations.

The Secretary is authorized to issue such rules and regulations as he determines necessary for the purpose of carrying out the provisions of this chapter. (Pub. L. 88–582, § 17, formerly § 14, renumbered and amended Pub. L. 93–518, §§ 14(a), 16, Dec. 7, 1974, 88 Stat. 1657, 1659.)

AMENDMENT

1974—Pub. L. 93–518, § 16, deleted reference to sections 2043 to 2045, and 2047 of this title.

§ 2054. Waiver of rights.

Any agreement by an employee purporting to waive or to modify his rights hereunder shall be void as contrary to public policy, except a waiver or modification of rights or obligations hereunder in favor of the Secretary shall be valid for purposes of enforcement of the provisions of this chapter. (Pub. L. 88–582, § 18, as added Pub. L. 93–518, § 15, Dec. 7, 1974, 88 Stat. 1658.)

§ 2055. Authorization of appropriations.

There are authorized to be appropriated to carry out the purposes of this chapter such sums as may be necessary for the effective enforcement of this chapter. (Pub. L. 88–582, § 19, as added Pub. L. 93–518, § 15, Dec. 7, 1974, 88 Stat. 1659.)

Chapter 53.—COTTON RESEARCH AND PROMOTION

§ 2106. Required terms and conditions in orders.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2119 of this title.

§ 2119. Programs of Commodity Credit Corporation.

The Commodity Credit Corporation, in furtherance of its powers and duties under section 714c (e) and (f) of Title 15, shall, through the Cotton Board establish under and upon approval of the Secretary, enter into agreements with the contracting organization specified pursuant to section 2106(g) of this title for the conduct, in domestic and foreign markets, of market development, research or sales promotion programs and programs to aid in the development of new and additional markets, marketing facilities and uses for cotton and cotton products, including programs to facilitate the utilization and commercial application of research findings. Each year the amount available for such agreements shall be 10 million dollars. The Secretary is authorized to deduct from funds available for payments to producers under section 1444 of this title on each of the 1972 through 1977 crops of upland cotton such additional sums for use as specified above (not exceeding $10,000,000 for each such crop) as he determines desirable; and the final rate of payment provided in section 1444 of this title if higher than the rate of the preliminary payment provided in such section shall be reduced to the extent necessary to defray such costs. No funds made available under this section shall be used for the purpose of influencing legislative action or general farm policy with respect to cotton. (As amended Pub. L. 93–86, § 1(23), Aug. 10, 1973, 87 Stat. 235.)

AMENDMENTS

1973—Pub. L. 93–86 substituted provisions authorizing that the amount available each year for agreements be 10 million dollars for provisions authorizing that the amount available each year for agreements be that portion of the funds (not exceeding $10,000,000) authorized to be made available to cooperators under the cotton program for such year but which is not paid to producers because of a statutory limitation on the amounts payable to any producer, and extended the authorization for deductions by the Secretary from 1973 to 1977.

Chapter 54.—TRANSPORTATION, SALE AND HANDLING OF CERTAIN ANIMALS

§ 2132. Definitions.

When used in this chapter—

* * * * *

(d) The term "affecting commerce" means in commerce or burdening or obstructing or substantially affecting commerce, or the free flow of commerce, or having led or tending to lead to the inhumane care of animals used or intended for use for purposes of research, experimentation, exhibition, or held for sale as pets, by burdening or obstructing or substantially affecting commerce or the free flow of commerce;

* * * * *

CODIFICATION

Subsec. (d) of this section is reset in this Supplement to correct the omission of the end quote from the definition in the 1970 Edition.

Chapter 55.—DEPARTMENT OF AGRICULTURE

Sec.

2204a. Rural development; utilization of non-Federal offices; location of field units; interchange of personnel and facilities; contents of reports [New].

2212a. Additional Assistant Secretary of Agriculture; appointment [New].

§ 2201. Establishment of Department.

There shall be at the seat of government a Department of Agriculture, the general design and duties of which shall be to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture and rural development, in the most general and comprehensive sense of those terms, and to procure, propagate, and distribute among the people new and valuable seeds and plants. (As amended Pub. L. 92–419, title VI, § 603(a), Aug. 30, 1972, 86 Stat. 675.)

AMENDMENTS

1972—Pub. L. 92–419 substituted "agriculture and rural development" and "those terms" for "agriculture" and "that word", respectively.

§ 2202. Executive Department; Secretary.

ORDER OF SUCCESSION

Order of succession in case of absence, sickness, resignation, or death of Secretary, see Ex. Ord. No. 11793, July 10, 1974, 39 F.R. 25631, set out as a note under section 3347 of Title 5, Government Organization and Employees.

§ 2204. General duties of Secretary; advisory functions; National rural development program, report to Congress.

(a) The Secretary of Agriculture shall procure and preserve all information concerning agriculture and rural development which he can obtain by means of books and correspondence, and by practical and scientific experiments, accurate records of which experiments shall be kept in his office, by the collection of statistics, and by any other appropriate means within his power; he shall collect new and valuable seeds and plants; shall test, by cultivation, the value of such of them as may require such tests; shall propagate such as may be worthy of propagation; and shall distribute them among agriculturists; and he shall advise the President, other members of his Cabinet, and the Congress on policies and programs designed to improve the quality of life for people living in the rural and nonmetropolitan regions of the Nation.

(b) The Secretary of Agriculture is authorized and directed to provide leadership and coordination within the executive branch and shall assume responsibility for coordinating a nationwide rural development program utilizing the services of executive branch departments and agencies and the agencies, bureaus, offices, and services of the Department of Agriculture in coordination with rural development programs of State and local governments. In carrying out this responsibility the Secretary of Agriculture shall establish employment, income, population, housing, and quality of community services and facilities goals for rural development and report annually prior to September 1 to Congress on progress in attaining such goals. The Sec-

retary is authorized to initiate or expand research and development efforts related to solution of problems of rural water supply, rural sewage and solid waste management, rural housing, and rural industrialization. (As amended Pub. L. 92–419, title VI, § 603(b), Aug. 30, 1972, 86 Stat. 675.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–419, § 603(b)(1)–(3), designated existing provisions as subsec. (a), provided for information concerning rural development, and prescribed advisory functions of the Secretary, respectively.

Subsec. (b). Pub. L. 92–419, § 603(b)(4), added subsec. (b).

ORDER OF SUCCESSION

Order of succession in case of absence, sickness, resignation, or death of Secretary, see Ex. Ord. No. 11793, July 10, 1974, 39 F.R. 25631, set out as a note under section 3347 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2204a of this title.

§ 2204a. Rural development; utilization of non-Federal offices; location of field units; interchange of personnel and facilities; contents of reports.

(1) The Secretary of Agriculture shall utilize to the maximum extent practicable State, regional, district, county, local, or other Department of Agriculture offices to enhance rural development, and shall to the maximum extent practicable provide directly, or, in the case of agencies outside of the Department of Agriculture, through arrangements with the heads of such agencies, for—

(A) the location of all field units of the Federal Government concerned with rural development in the appropriate Department of Agriculture offices covering the geographical areas most similar to those covered by such field units, and

(B) the interchange of personnel and facilities in each such office to the extent necessary or desirable to achieve the most efficient utilization of such personnel and facilities and provide the most effective assistance in the development of rural areas in accordance with State rural development plans.

(2) The Secretary shall include in the report required by section 2204(b) of this title a report on progress made in carrying out paragraph (1) of this section, together with such recommendations as may be appropriate. (Pub. L. 92–419, title VI, § 603(c), Aug. 30, 1972, 86 Stat. 675.)

CODIFICATION

"Section 2204(b) of this title" and "this section", in par. (2), originally read "this section" and this subsection", respectively. The substitution was made in the codification of the provisions.

§ 2212a. Additional Assistant Secretary of Agriculture; appointment.

In addition to the Assistant Secretaries of Agriculture now provided for by law, there shall be one additional Assistant Secretary of Agriculture, who shall be appointed by the President, by and with the advice and consent of the Senate. (Pub. L. 92–419, title VI, § 604(a), Aug. 30, 1972, 86 Stat. 676.)

§ 2216. Repealed. Pub. L. 92–310, title II, § 221(a), June 6, 1972, 86 Stat. 205

Section, R.S. § 524; acts Mar. 2, 1895, ch. 177, § 5, 28 Stat. 807; May 10, 1934, ch. 277, § 512(b), 48 Stat. 759, related to the bond of the chief clerk of the Department of Agriculture.

§ 2225. Employment of temporary personnel.

The Department of Agriculture may employ persons or organizations, on a temporary basis, by contract or otherwise, without regard to the Classification Act of 1923, as amended: *Provided*, That no expenditures for such temporary employment shall be made unless provision is made therefor in the applicable appropriation and the cost thereof is not in excess of limitations prescribed therein. (Sept. 21, 1944, ch. 412, title VII, § 706(a), 58 Stat. 742; Ex. Ord. No. 9577, June 29, 1945, 10 F.R. 4253.)

CODIFICATION

The exception from "the Classification Act of 1923, as amended" is obsolete. Sections 1202 and 1204 of the Classification Act of 1949 (63 Stat. 972, 973) repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act, it did not have the effect of continuing the exception contained in this section because of section 1106(b) that provided that the application of the 1949 Act to any position, officer, or employee shall not be affected by section 1106(a). The Classification Act of 1949 was repealed by Pub. L. 89–544, § 8(a), Sept. 6, 1966, 80 Stat. 632 (section 1 of which revised and enacted Title 5, Government Organization and Employees, into law). Section 5102 of Title 5 now contains the applicability provisions of the 1949 Act.

CROSS REFERENCES

Temporary or intermittent employment of experts and consultants, see section 3109 of Title 5, Government Organization and Employees.

§ 2229. Travel and per diem expenses of temporary or seasonal employees.

Under such regulations as may be prescribed by the Secretary of Agriculture, funds available to the Department of Agriculture may be used for the payment of transportation expenses and per diem in lieu of subsistence expenses, in accordance with subchapter I of chapter 57 of Title 5, for travel between places of recruitment and duty, and while at places of duty, of persons appointed for temporary or seasonal services in inspection, classing or grading agricultural commodities. (Aug. 3, 1956, ch. 950, § 12, 70 Stat. 1034)

CODIFICATION

"Subchapter I of chapter 57 of Title 5" was substituted for "the Travel Expense Act of 1949" on authority of section 7(b) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

§ 2233. Funds available for expenses of advisory committees.

Funds available for carrying out the activities of the Department of Agriculture shall be aavilable for expenses of advisory committees, including travel expenses in accordance with the provisions of section 5703 of Title 5. (Aug. 3, 1956, ch. 950, § 4, 70 Stat. 1033.)

CODIFICATION

"Section 5703 of Title 5" was substituted for "section 5 of the Administrative Expenses Act of 1946, as amended" on authority of section 7(b) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

§ 2254. Operations, maintenance and purchase of aircraft by Agricultural Research Service; construction and repair of buildings.

Appropriations for the Agricultural Research Service shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only and pursuant to section 2250 of this title for the construction, alteration, and repair of buildings and improvements. (Pub. L. 94–122, title I, § 101, Oct. 21, 1975, 89 Stat. 642, 643.)

SIMILAR PROVISIONS

Section is from the Agriculture and Related Agencies Appropriation Act, 1976, Pub. L. 94–122. Similar provisions were contained in the following acts:

1974—Pub. L. 93–563, title I, § 101, Dec. 31, 1974, 88 Stat. 1823.

1973—Pub. L. 93–135, title I, § 101, Oct. 24, 1973, 87 Stat. 470.

1972—Pub. L. 92–399, title I, § 101, Aug. 22, 1972, 86 Stat. 593.

1971—Pub. L. 92–73, title I, § 101, Aug. 10, 1971, 85 Stat. 184.

Chapter 59.—RURAL FIRE PROTECTION, DEVELOPMENT, AND SMALL FARM RESEARCH AND EDUCATION [NEW]

SUBCHAPTER I.—RURAL COMMUNITY FIRE PROTECTION

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SUBCHAPTER I.—RURAL COMMUNITY FIRE PROTECTION

§ 2651. Fire protection assistance; purpose and findings.

In order to shield human and natural resources, financial investments, and environmental quality from losses due to fires in unprotected or poorly protected rural areas there is a need to strengthen and synergize Federal, State, and local efforts to establish an adequate protection capability wherever the lives and property of Americans are endangered by fire in rural communities and areas. The Congress hereby finds that inadequate fire protection and the resultant threat of substantial losses of life and property is a significant deterrent to the investment of the labor and capital needed to help revitalize rural America, and that well-organized, equipped, and trained firefighting forces are needed in many rural areas to encourage and safeguard public and private investments in the improvement and development of areas of rural America where organized protection against losses from fire is lacking or inadequate. To this end, the Secretary of Agriculture is authorized and directed to provide financial, technical, and other assistance to State foresters or other appropriate officials of the several States in cooperative efforts to organize, train, and equip local forces, including those of Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups to prevent, control, and suppress fires threatening human life, livestock, wildlife, crops, pastures, orchards, rangeland, woodland, farmsteads, or other improvements, and other values in rural areas as defined in section 1926(a)(7) of this title. (Pub. L. 92–419, title IV, § 401, Aug. 30, 1972, 86 Stat. 670, amended Pub. L. 91–524, title VIII, § 816(a), as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 240.)

AMENDMENTS

1937—Pub. L. 91–524, § 816(a), as added by Pub. L. 93–86 substituted "fire" for "wildfire" and "fires" for "wildfires" wherever appearing therein.

§ 2652. Cooperative agreements with State officials; terms and conditions; matching funds; limitation; State expenditures certificate.

The Secretary shall carry out this subchapter in accordance with cooperative agreements, made with appropriate State officials, which include such terms and conditions as the Secretary deems necessary to achieve the purposes of this subchapter. No such agreement shall provide for financial assistance by the Secretary under this subchapter in any State during any fiscal year in excess of 50 per centum of the total budgeted expenditures or the actual expenditures, whichever is less, of the undertaking of such agreement for such year, including any expenditures of local public and private nonprofit organizations, including Indian tribal groups, participating in the activities covered by the agreement. Payments by the Secretary under any such agreement may be made on the certificate of the appropriate State official that the expenditures provided for under such agreement have been made. (Pub. L. 92–419, title IV, § 402, Aug. 30, 1972, 86 Stat. 670.)

§ 2653. Report to President; transmittal to Congress.

The Secretary of Agriculture shall submit to the President within two years after August 30, 1972, a written report detailing the contribution of the rural fire protection program toward achieving the purposes of this subchapter. The Secretary shall also include in such report such recommendations regarding the rural fire protection program as he deems appropriate. The President shall transmit the report to the Congress for review and appropriate action. (Pub. L. 92–419, title IV, § 403, Aug. 30, 1972, 86 Stat. 671.)

§ 2654. Authorization of appropriations.

There is authorized to be appropriated to carry out the provisions of this subchapter $7,000,000 for each of three consecutive fiscal years beginning with the fiscal year for which funds are first appropriated and obligated by the Secretary of Agriculture carrying out this subchapter. (Pub. L. 92–419, title IV, § 404, Aug. 30, 1972, 86 Stat. 671, amended Pub. L. 91–524, title VIII, § 816(b), as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 240.)

AMENDMENTS

1973—Pub. L. 91–524, § 816(b), as added by Pub. L. 93–86 substituted "three consecutive fiscal years beginning with the fiscal year for which funds are first appropriated and obligated by the Secretary of Agriculture carrying out this subchapter" for "the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975."

SUBCHAPTER II.—RURAL DEVELOPMENT AND SMALL FARM RESEARCH AND EDUCATION

§ 2661. Statement of purposes.

The purpose of this subchapter is to encourage and foster a balanced national development that provides opportunities for increased numbers of Americans to work and enjoy a high quality of life dispersed throughout our Nation by providing the essential knowledge necessary for successful programs of rural development. It is further the purpose of this subchapter—

(a) to provide multistate regional agencies, States, counties, cities, multicounty planning and development of districts, businesses, industries, organizations, Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, and others involved with public services and investments in rural areas or that provide or may provide employment in these areas the best available scientific, technical, economic, organizational, environmental, and management information and knowledge useful to them, and to assist and encourage them in the interpretation and application of this information to practical problems and needs in rural development;

(b) to provide research and investigations in all fields that have as their purpose the development of useful knowledge and information to assist those planning, carrying out, managing, or investing in facilities, services, businesses, or other enterprises, public and private, that may contribute to rural development;

(c) to enhance the capabilities of colleges and universities to perform the vital public service roles of research, transfer, and practical application of knowledge in support of rural development;

(d) to expand research on innovative approaches to small farm management and technology and extend training and technical assistance to small farmers so that they may fully utilize the best available knowledge on sound economic approaches to small farm operations.

(Pub. L. 92–419, title V, § 501, Aug. 30, 1972, 86 Stat. 671.)

§ 2662. Programs authorization; cooperation and coordination with colleges and universities.

The Secretary of Agriculture (hereafter referred to as the "Secretary") is directed and authorized to conduct in cooperation and in coordination with colleges and universities the following programs to carry out the purposes of this subchapter.

(a) Rural development extension programs.

Rural development extension programs shall consist of the collection, interpretation, and dissemination of useful information and knowledge from research and other sources to units of multistate regional agencies, State, county, municipal, and other units of government, multicounty planning and development districts, organizations of citizens contributing to rural development, business, Indian tribes on Federal or State reservations or other federally recognized Indian tribal groups, or industries that employ or may employ people in rural areas. These programs also shall include technical services and educational activity, including instruction for persons not enrolled as students in colleges or universities, to facilitate and encourage the use and practical application of this information. These programs also may include feasibility studies and planning assistance.

(b) Rural development research.

Rural development research shall consist of research, investigations, and basic feasibility studies in any field or discipline which may develop principles, facts, scientific and technical knowledge, new technology, and other information that may be useful to agencies of Federal, State, and local government, industries in rural areas, Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, and other organizations involved in rural development programs and activities in planning and carrying out such programs and activities or otherwise be practical and useful in achieving increased rural development.

(c) Small farm extension, research, and development programs.

Small farm extension and research and development programs shall consist of extension and research programs with respect to new approaches for small farms in management, agricultural production techniques, farm machinery technology, new products, cooperative agricultural marketing, and distribution suitable to the economic development of family size farm operations. (Pub. L. 92–419, title V, § 502, Aug. 30, 1972, 86 Stat. 671.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2663, 2664 of this title.

§ 2663. Program moneys.

(a) Authorization of appropriations.

There is hereby authorized to be appropriated to carry out the purposes of this subchapter not to exceed $10,000,000 for the fiscal year ending June 30, 1974, not to exceed $15,000,000 for the fiscal year ending June 30, 1975, and not to exceed $20,000,000 for the fiscal year ending June 30, 1976.

(b) Allocation of funds.

Such sums as the Congress shall appropriate to carry out the purposes of this subchapter pursuant to subsection (a) of this section shall be distributed by the Secretary as follows:

(1) 4 per centum to be used by the Secretary for Federal administration, national coordination, and program assistance to the States;

(2) 10 per centum to be allocated by the Secretary to States to finance work serving two or more States in which universities in two or more States cooperate or which is conducted by one university to serve two or more States;

(3) 20 per centum shall be allocated equally among the States;

(4) 66 per centum shall be allocated to each State, as follows: One-half in an amount which bears the same ratio to the total amount to be allotted as the rural population of the States bears to the total rural population of all the States as determined by the last preceding decennial census current at the time each such additional sum is first appropriated; and one-half in an amount which bears the same ratio to the total amount to be allotted as the farm population of the State bears to the total farm population of all the States as determined by the last preceding decennial census current at the time such additional sum is first appropriated.

(c) Use of funds.

Funds appropriated under this subchapter may be used to pay salaries and other expenses of personnel employed to carry out the functions authorized by this subchapter, to obtain necessary supplies, equipment, services, and rent, repair, and maintenance of other facilities needed, but may not be used to purchase or construct buildings.

(d) Contingencies for payment of funds; fiscal year availability; budget and accounting.

Payment of funds to any State for programs authorized under section 2662 (a), (b), and (c) of this title shall be contingent upon the Secretary's approval of an annual plan and budget for programs conducted under each part and compliance with such regulations as the Secretary may issue under this subchapter. Funds shall be available for use by the State in the fiscal year for which appropriated and the next fiscal year following the year for which appropriated. Funds shall be budgeted and accounted for on such forms and at such times as the Secretary shall prescribe.

(e) Financing programs at universities other than universities responsible for administration of programs.

Funds provided to each State under this subchapter may be used to finance programs through or at private and publicly supported colleges and universities other than the university responsible for administering the programs authorized by this subchapter. (Pub. L. 92–419, title V, § 503, Aug. 30, 1972, 86 Stat. 672.)

§ 2664. Cooperating colleges and universities.

(a) Coordinated State program.

Each of the programs authorized by this subchapter shall be organized and conducted by one or more colleges or universities in each State so as to provide a coordinated program in each State.

(b) State program administration; payment of funds.

To assure national coordination with programs under the Smith-Lever Act of 1914 and the Hatch Act (as amended, August 11, 1955), administration of each State program shall be a responsibility of the institution or university accepting the benefits of the Morrill Act of 1862 (12 Stat. 503) as amended. Such administration shall be in association with the programs conducted under the Smith-Lever Act and the Hatch Act. The Secretary shall pay funds available to each State to said institution or university.

(c) Institutions eligible for programs; program proposals; approval.

All private and publicly supported colleges and universities in a State including the land-grant colleges of 1890 (26 Stat. 417) shall be eligible to conduct or participate in conducting programs authorized under this subchapter. Officials at universities or colleges other than those responsible for administering programs authorized by this subchapter who wish to participate in these programs shall submit program proposals to the university officials responsible for administering these programs and they shall be responsible for approval of said proposals.

(d) Officials; designation for State program administration.

The university in each State responsible for administering the program authorized by this subchapter shall designate an official who shall be responsible for programs authorized by each part of section 2662 of this title and an official who shall be responsible for the overall coordination of said programs.

(e) State Rural Development Advisory Council; appointment; membership; chairman; engineering member; representation of interests; function of Council.

The chief administrative officer of the university in each State responsible for administering the program authorized by this subchapter shall appoint a State Rural Development Advisory Council, consisting of not more than fifteen members. The administrative head of agriculture of that university shall serve as chairman. The administrative head of a principal school of engineering in the State shall be a member. There shall be at least ten additional members who shall include persons representing farmers, business, labor, banking, local government, multicounty planning and development districts, public and private colleges and Federal and State agencies involved in rural development.

It shall be the function of the Council to review and approve annual program plans conducted under this subchapter and to advise the chief administrative officer of the university on matters pertaining to the program authorized. (Pub. L. 92–419, title V, § 504, Aug. 30, 1972, 86 Stat. 673.)

REFERENCES IN TEXT

Smith-Lever Act, referred to in subsec. (b), is classified to sections 341–343, 344–346, and 347a–349 of this title.

Hatch Act, referred to in subsec. (b), is classified to sections 361a–361i of this title.

Morrill Act of 1862, referred to in subsec. (b), is classified to sections 301–305, 307, and 308 of this title.

Land-grant colleges of 1890 (26 Stat. 417), referred to in subsec. (c), means the Agricultural College Act of 1890, which is classified to sections 321–326a and 328 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2665. Agreements and plans.

(a) Memorandum of understanding.

Programs authorized under this subchapter shall be conducted as mutually agreed upon by the Secretary and the university responsible for administering said programs in a memorandum of understanding which shall provide for the coordination of the programs authorized under this subchapter, coordination of these programs with other rural development programs of Federal, State, and local government, and such other matters as the Secretary shall determine.

(b) Annual program plan.

Annually said university shall submit to the Secretary an annual program plan for programs authorized under this subchapter which shall include plans for the programs to be conducted by each cooperating and participating university or college and such other information as the Secretary shall prescribe. Each State program must include research and extension activities directed toward identification of programs which are likely to have the greatest impact upon accomplishing the objectives of rural development in both the short and longer term and the use of these studies to support the State's comprehensive program to be supported under this subchapter. (Pub. L. 92–419, title V, § 505, Aug. 30, 1972, 86 Stat. 673.)

§ 2666. Withholding funds; report to President; separate account in Treasury; State appeal to Congress; covering moneys into Treasury; State money replacement.

When the Secretary determines that a State is not eligible to receive part or all of the funds to which it is otherwise entitled because of a failure to satisfy conditions specified in this subchapter, or because of a failure to comply with regulations issued by the Secretary under this subchapter, the facts and reasons therefor shall be reported to the President, and the amount involved shall be kept separate in the Treasury until the expiration of the Congress next succeeding a session of the legislature of the State from which funds have been withheld in order that the State may, if it should so desire, appeal to Congress from the determination of the Secretary. If the next Congress shall not direct such sum to be paid, it shall be covered into the Treasury. If any portion of the moneys received by the designated officers of any State for the support and maintenance of programs authorized by this subchapter shall by any action or contingency be diminished or lost, or be misapplied, it shall be replaced by said State. (Pub. L. 92–419, title V, § 506, Aug. 30, 1972, 86 Stat. 674.)

§ 2667. Definitions.

For the purposes of this subchapter—

(a) "Rural development" means the planning, financing, and development of facilities and services in rural areas that contribute to making these areas desirable places in which to live and make private and business investments; the planning, development, and expansion of business and industry in rural areas to provide increased employment and income; the planning, development, conservation, and use of land, water, and other natural resources of rural areas to maintain or enhance the quality of the environment for people and business in rural areas; and processes and procedures that have said objectives as their major purposes.

(b) The word "State" means the several States and the Commonwealth of Puerto Rico. (Pub. L. 92–419, title V, § 507, Aug. 30, 1972, 86 Stat. 674.)

§ 2668. Regulations.

The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this subchapter. (Pub. L. 92–419, title V, § 508, Aug. 30, 1972, 86 Stat. 674.)

Chapter 60.—EGG RESEARCH AND CONSUMER INFORMATION [NEW]

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§ 2701. Congressional findings and declaration of policy.

Eggs constitute one of the basic, natural foods in the diet. They are produced by many individual egg producers throughout the United States. Egg products, spent fowl, and products of spent fowl are derivatives of egg production. These products move in interstate and foreign commerce and those which do not move in such channels of commerce directly burden or affect interstate commerce of these products. The maintenance and expansion of existing markets and the development of new or improved markets and uses are vital to the welfare of egg producers and those concerned with marketing, using, and processing eggs as well as the general economy of the Nation. The production and marketing of these products by numerous individual egg producers have prevented the development and carrying out of adequate and coordinated programs of research and promotion necessary for the maintenance of markets and the development of new products of, and markets for, eggs, egg products, spent fowl, and products of spent fowl. Without an effective and coordinated method for assuring cooperative and collective action in providing for and financing such programs, individual egg producers are unable to provide, obtain, or carry out the research, consumer and producer information, and promotion necessary to maintain and improve markets for any or all of these products.

It has long been recognized that it is in the public interest to provide an adequate, steady supply of fresh eggs readily available to the consumers of the Nation. Maintenance of markets and the development of new markets, both domestic and foreign, are essential to the egg industry if the consumers of eggs, egg products, spent fowl, or products of spent fowl are to be assured of an adequate, steady supply of such products.

It is therefore declared to be the policy of the Congress and the purpose of this chapter that it is essential and in the public interest, through the exercise of the powers provided herein, to authorize and enable the establishment of an orderly procedure for the development and the financing through an adequate assessment, an effective and continuous coordinated program of research, consumer and producer education, and promotion designed to strengthen the egg industry's position in the marketplace, and maintain and expand domestic and foreign markets and uses for eggs, egg products, spent fowl, and products of spent fowl of the United States. Nothing in this chapter shall be construed to mean, or provide for, control of production or otherwise limit the right of individual egg producers to produce commercial eggs. (Pub. L. 93–428, § 2, Oct. 1, 1974, 88 Stat. 1171.)

EFFECTIVE DATE

Section 21 of Pub. L. 93–428 provided that: "This Act [which enacted this chapter and provisions set out as notes under this section] shall take effect upon enactment [Oct. 1, 1974]."

SHORT TITLE

Section 1 of Pub. L. 93–428 provided: "That this Act [which enacted this chapter and provisions set out as notes under this section] shall be known as the 'Egg Research and Consumer Information Act'."

SEPARABILITY OF PROVISIONS

Section 19 of Pub. L. 93–438 provided that: "If any provision of this Act [which enacted this chapter and provisions set out as notes under this section] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby."

§ 2702. Definitions.

As used in this chapter—

(a) The term "Secretary" means the Secretary of Agriculture or any other officer or employee of the Department of Agriculture to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

(b) The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(c) The term "commercial eggs" "or eggs" means eggs from domesticated chickens which are sold for human consumption either in shell egg form or for further processing into egg products.

(d) The term "hen" or "laying hen" means a domesticated female chicken twenty weeks of age or over, raised primarily for the production of commercial eggs.

(e) The term "egg producer" means the person owning laying hens engaged in the production of commercial eggs.

(f) The term "case" means a standard shipping package containing thirty dozen eggs.

(g) The term "hatching eggs" means eggs intended for use by hatcheries for the production of baby chicks.

(h) The term "United States" means the forty-eight contiguous States of the United States of America and the District of Columbia.

(i) The term "promotion" means any action, including paid advertising, to advance the image or desirability of eggs, egg products, spent fowl, or products of spent fowl.

(j) The term "research" means any type of research to advance the image, desirability, marketability, production, or quality of eggs, egg products, spent fowl, or products of spent fowl.

(k) The term "consumer education" means any action to advance the image or desirability of eggs, egg products, spent fowl, or products of spent fowl.

(l) The term "marketing" means the sale or other disposition of commercial eggs, egg products, spent fowl, or products of spent fowl, in any channel of commerce.

(m) The term "commerce" means interstate, foreign, or intrastate commerce.

(n) The term "egg products" means products produced, in whole or in part, from eggs.

(o) The term "spent fowl" means hens which have been in production of commercial eggs and have been removed from such production for slaughter.

(p) The term "products of spent fowl" means commercial products produced from spent fowl.

(q) The term "hatchery operator" means any person engaged in the production of egg-type baby chicks.

(r) The term "started pullet" means a hen less than twenty weeks of age.

(s) The term "started pullet dealer" means any person engaged in the sale of started pullets.

(t) The term "handler" means any person, specified in the order or the rules and regulations issued thereunder, who receives or otherwise acquires eggs from an egg producer, and processes, prepares for marketing, or markets, such eggs, including eggs of his own production. (Pub. L. 93–428, § 3, Oct. 1, 1974, 88 Stat. 1172.)

EFFECTIVE DATE

Section effective Oct. 1, 1974, see section 21 of Pub. L. 93–428, set out as a note under section 2701 of this title.

§ 2703. Orders of Secretary to egg producers, etc.

To effectuate the declared policy of this chapter, the Secretary shall, subject to the provisions of this chapter, issue and from time to time amend, orders applicable to persons engaged in the hatching and/or sale of egg-type baby chicks and started pullets, persons engaged in the production of commercial eggs and persons who receive or otherwise acquire eggs from such persons and who process, prepare for market, or market such eggs, including eggs of their own production, and persons engaged in the purchase, sale or processing of spent fowl. Such orders shall be applicable to all production or marketing areas, or both, in the United States. (Pub. L. 93–428, § 4, Oct. 1, 1974, 88 Stat. 1172.)

EFFECTIVE DATE

Section effective Oct. 1, 1974, see section 21 of Pub. L. 93–428, set out as a note under section 2701 of this title.

§ 2704. Notice and hearing upon proposed orders.

Whenever the Secretary has reason to believe that the issuance of an order will tend to effectuate the declared policy of this chapter, he shall give due notice and opportunity for hearing upon a proposed order. Such hearing may be requested and proposal for an order submitted by an organization certified pursuant to section 2715 of this title, or by any interested person affected by the provisions of this chapter, including the Secretary. (Pub. L. 93–428, § 5, Oct. 1, 1974, 88 Stat. 1173.)

EFFECTIVE DATE

Section effective Oct. 1, 1974, see section 21 of Pub. L. 93–428, set out as a note under section 2701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2705, 2715 of this title.

§ 2705. Findings and issuance of orders.

After notice and opportunity for hearing as provided in section 2704 of this title, the Secretary shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing, that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this chapter. (Pub. L. 93–428, § 6, Oct. 1, 1974, 88 Stat. 1173.)

EFFECTIVE DATE

Section effective Oct. 1, 1974, see section 21 of Pub. L. 93–428, set out as a note under section 2701 of this title.

§ 2706. Permissive terms and conditions in orders.

Order issued pursuant to this chapter shall contain one or more of the following terms and conditions, and except as provided in section 2707 of this title, no others.

(a) Advertising, sales promotion, and consumer education plans or projects; prohibition on reference to private brand or trade name and use of unfair or deceptive acts or practices.

Providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for advertising, sales promotion, and consumer education with respect to the use of eggs, egg products, spent fowl, and products of spent fowl, and for the disbursement of necessary funds for such purposes: *Provided, however,* That any such plan or project shall be directed toward increasing the general demand for eggs, egg products, spent fowl, or products of spent fowl. No reference to a private brand or trade name shall be made if the Secretary determines that such reference will result in undue discrimination against eggs, egg products, spent fowl, or products of spent fowl of other persons: *And provided further,* That no such advertising, consumer education, or sales promotion programs shall make use of unfair or deceptive acts or practices in behalf of eggs, egg products, spent fowl, or products of spent fowl or unfair or deceptive acts or

practices with respect to quality, value, or use of any competing product.

(b) Research, marketing, and development projects and studies.

Providing for, establishing, and carrying on research, marketing, and development projects, and studies with respect to sale, distribution, marketing, utilization, or production of eggs, egg products, spent fowl, and products of spent fowl, and the creation of new products thereof, to the end that the marketing and utilization of eggs, egg products, spent fowl, and products of spent fowl may be encouraged, expanded, improved or made more acceptable, and the data collected by such activities may be disseminated and for the disbursement of necessary funds for such purposes.

(c) Recordkeeping and reporting requirements; disclosure of confidential information; violations; penalties.

Providing that hatchery operators, persons engaged in the sale of egg-type baby chicks and started pullet dealers, persons engaged in the production of commercial eggs and persons who receive or otherwise acquire eggs from such persons and who process, prepare for market, or market such eggs, including eggs of their own production, and persons engaged in the purchase, sale, or processing of spent fowl, maintain and make available for the inspection such books and records as may be required by any order issued pursuant to this chapter and for the filing of reports by such persons at the time, in the manner, and having content prescribed by the order, to the end that information and data shall be made available to the Egg Board and to the Secretary which is appropriate or necessary to the effectuation, administration or enforcement of this chapter, or of any order or regulation issued pursuant to this chapter: *Provided, however,* That all information so obtained shall be kept confidential by all officers and employees of the Department of Agriculture, the Egg Board, and by all officers and employees of contracting agencies having access to such information, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which he or any officer of the United States is a party, and involving the order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon the reports of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, (2) the publication, by the direction of the Secretary, of general statements relating to refunds made by the Egg Board during any specific period, or (3) the publication by direction of the Secretary of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person. Any such officer or employee violating the provision of this subsection shall, upon conviction, be subjected to a fine of not more than $1,000 or to imprisonment for not more than one year, or to both, and if an officer or employee of the Egg Board or Department of Agriculture shall be removed from office.

(d) Incidental and necessary terms and conditions.

Terms and conditions incidental to and not inconsistent wth the terms and conditions specified in this chapter and necessary to effectuate the other provisions of such order. (Pub. L. 93–428, § 7, Oct. 1, 1974, 88 Stat. 1173.)

EFFECTIVE DATE

Section effective Oct. 1, 1974, see section 21 of Pub. L. 93–428, set out as a note under section 2701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2707 of this title.

§ 2707. Required terms and conditions in orders.

Orders issued pursuant to this chapter shall contain the following conditions:

(a) Egg Board; establishment; appointment and terms of membership; powers and duties.

Providing for the establishment and appointment, by the Secretary, of an Egg Board which shall consist of not more than eighteen members, and alternates therefor, and defining its powers and duties which shall include only the powers (1) to administer such order in accordance with its terms and provisions, (2) to make rules and regulations to effectuate the terms and provisions of such order, (3) to receive, investigate and report to the Secretary complaints of violations of such order, and (4) to recommend to the Secretary amendments to such order. The term of an appointment to the Egg Board shall be for two years with no member serving more than three consecutive terms, except that initial appointment shall be proportionately for two-year and three-year terms.

(b) Composition of Board.

Providing that the Egg Board, and alternates therefor, shall be composed of egg producers or representatives of egg producers appointed by the Secretary from nominations submitted by eligible organizations, associations, or cooperatives, and certified pursuant to section 2715 of this title, or, if the Secretary determines that a substantial number of egg producers are not members of or their interests are not represented by any such eligible organizations, associations or cooperatives, then from nominations made by such egg producers in the manner authorized by the Secretary, so that the representation of egg producers on the Board shall reflect, to the extent practicable, the proportion of eggs produced in each geographic area of the United States as defined by the Secretary: *Provided, however,* That each such egg producing geographic area shall be entitled to at least one representative on the Egg Board.

(c) Advertising, sales promotion, consumer education, and research and development plans or projects; development and submittal to Secretary by Board.

Providing that the Egg Board shall, subject to the provisions of subsection (g) of this section, develop and submit to the Secretary for his approval any advertising, sales promotion, consumer education, research, and development plans or projects, and that any such plan or project must be approved by the Secretary before becoming effective.

(d) Budgets; submittal to Secretary by Board.

Providing that the Egg Board shall, subject to the provisions of subsection (g) of this section, submit to the Secretary for his approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of advertising, promotion, consumer education, research, and development projects.

(e) Assessment payments by egg producers to egg handlers; implementation pursuant to order of Board; determination of amount; collection of assessment; rate limitation; maintenance of suit for collection.

Providing that each egg producer shall pay to the handler of eggs designated by the order of the Egg Board pursuant to regulations issued under the order, an assessment based upon the number of cases of commercial eggs handled for the account of such producer, in the manner as prescribed by the order, for such expenses and expenditures—including provision for a reasonable reserve and those administrative costs incurred by the Department after an order has been promulgated under this chapter—as the Secretary finds are reasonable and likely to be incurred by the Egg Board under the order during any period specified by him. Such handler shall collect such assessment from the producer and shall pay the same to the Egg Board in the manner as prescribed by the order. The rate of assessment prescribed by the order shall not exceed 5 cents per case of commercial eggs or the equivalent thereof. To facilitate the collection of such assessments, the order of the Egg Board may designate different handlers or classes of handlers to recognize differences in marketing practices or procedures utilized in the industry. The Secretary may maintain a suit against any person subject to the order for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

(f) Recordkeeping and reporting requirements; accounting by Board.

Providing that the Egg Board shall maintain such books and records and prepare and submit such reports from time to time, to the Secretary as he may prescribe, and for appropriate accounting by the Egg Board with respect to the receipt and disbursement of all funds entrusted to it.

(g) Contracts or agreements by Board for implementation of orders and payment of costs; required provisions.

Providing that the Egg Board, with the approval of the Secretary, may enter into contracts or agreements for development and carrying out of the activities authorized under the order pursuant to section 2706 (a) and (b) of this title and for the payment of the cost thereof with funds collected pursuant to the order. Any such contract or agreement shall provide that such contractors shall develop and submit to the Egg Board a plan or project together with a budget or budgets which shall show estimated costs to be incurred for such plan or project, and that any such plan or project shall become effective upon the approval of the Secretary, and further, shall provide that the contracting party shall keep accurate records of all of its transactions and make periodic reports to the Egg Board of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary may require.

(h) Restriction on use of funds collected by Board for political purposes.

Providing that no funds collected by the Egg Board under the order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (a)(4) of this section.

(i) Compensation and expenses of members of Board.

Providing that the Board members, and alternates therefor, shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board. (Pub. L. 93–428, § 8, Oct. 1, 1974, 88 Stat. 1174.)

EFFECTIVE DATE

Section effective Oct. 1, 1974, see section 21 of Pub. L. 93–428, set out as a note under section 2701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2715 of this title.

§ 2708. Referendum and egg producer approval of orders.

The Secretary shall conduct a referendum among egg producers not exempt hereunder who, during a representative period determined by the Secretary, have been engaged in the production of commercial eggs, for the purpose of ascertaining whether the issuance of an order is approved or favored by such producers. No order issued pursuant to this chapter shall be effective unless the Secretary determines that the issuance of such order is approved or favored by not less than two-thirds of the producers voting in such referendum, or by a majority of the producers voting in such referendum if such majority produced not less than two-thirds of the commercial eggs produced during a representative period defined by the Secretary. (Pub. L. 93–428, § 9, Oct. 1, 1974, 88 Stat. 1176.)

EFFECTIVE DATE

Section effective Oct. 1, 1974, see section 21 of Pub. L. 93–428, set out as a note under section 2701 of this title.

§ 2709. Termination or suspension of orders.

(a) Authority of Secretary.

The Secretary shall, whenever he finds that any order issued under this chapter, or any provisions thereof, obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such order or such provisions thereof.

(b) Referendum to terminate or suspend; eligible voters; requirements for approval; termination or suspension date.

The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 per centum or more of the number of egg producers voting in the referendum approving the order, to determine whether such producers favor the termination or suspension of the order, and he shall suspend or terminate such order six months after he determines that suspension or termination of the order is approved or favored by a majority of the egg producers voting in such referendum who, during

a representative period determined by the Secretary, have been engaged in the production of commercial eggs, and who produced more than 50 per centum of the volume of eggs produced by the egg producers voting in the referendum.

(c) Termination or suspension not to be considered as order.

The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this chapter. (Pub. L. 93–428, § 10, Oct. 1, 1974, 88 Stat. 1176.)

EFFECTIVE DATE

Section effective Oct. 1, 1974, see section 21 of Pub. L. 93–428, set out as a note under section 2701 of this title.

§ 2710. Applicability of provisions to amendments to orders.

The provisions of this chapter applicable to orders shall be applicable to amendments to orders. (Pub. L. 93–428, § 11, Oct. 1, 1974, 88 Stat. 1176.)

EFFECTIVE DATE

Section effective Oct. 1, 1974, see section 21 of Pub. L. 93–428, set out as a note under section 2701 of this title.

§ 2711. Exempted egg producers and breeding hen flocks; conditions and procedures.

The following may be exempt from specific provisions of this chapter under such conditions and procedures as may be prescribed in the order or rules and regulations issued thereunder:

(a) Any egg producer whose aggregate number of laying hens at any time during a three-consecutive-month period immediately prior to the date assessments are due and payable has not exceeded three thousand laying hens.

(b) Any flock of breeding hens whose production of eggs is primarily utilized for the hatching of baby chicks. (Pub. L. 93–428, § 12, Oct. 1, 1974, 88 Stat. 1176.)

EFFECTIVE DATE

Section effective Oct. 1, 1974, see section 21 of Pub. L. 93–428, set out as a note under section 2701 of this title.

§ 2712. Refund of assessment from Egg Board; procedures.

Notwithstanding any other provisions of this chapter, any egg producer against whose commercial eggs any assessment is made and collected from him under authority of this chapter and who is not in favor of supporting the programs as provided for herein shall have the right to demand and receive from the Egg Board a refund of such assessment: *Provided*, That such demand shall be made personally by such producer in accordance with regulations and on a form and within a time period prescribed by the Board and approved by the Secretary but in no event more than ninety days after the end of the month in which the assessments are due and collectable, and upon submission of proof satisfactory to the Board that the producer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand is received therefor. (Pub. L. 93–428, § 13, Oct. 1, 1974, 88 Stat. 1177.)

EFFECTIVE DATE

Section effective Oct. 1, 1974, see section 21 of Pub. L. 93–428, set out as a note under section 2701 of this title.

§ 2713. Administrative review of orders; petition; hearing; judicial review.

(a) Any person subject to any order may file a written petition with the Secretary, stating that any such order or any provisions of such order or any obligations imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 2714(a) of this title. (Pub. L. 93–428, § 14, Oct. 1, 1974, 88 Stat. 1177.)

EFFECTIVE DATE

Section effective Oct. 1, 1974, see section 21 of Pub. L. 93–428, set out as a note under section 2701 of this title.

§ 2714. Enforcement of orders; referral of civil actions to Attorney General; penalties for willful violations; availability of additional remedies.

(a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order or regulation made or issued pursuant to this chapter. Any civil action authorized to be brought under this chapter shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this chapter shall be construed as requiring the Secretary to refer to the Attorney General minor violations of this chapter whenever he believes that the administration and enforcement of the program would be adequately served by suitable written notice or warning to any person committing such violation.

(b) Any egg producer or other person who willfully violates any provision of any order issued by the Secretary under this chapter, or who willfully fails or refuses to collect or remit any assessment or fee duly required of him thereunder, shall be liable to a penalty of not more than $1,000 for each such offense which shall accrue to the United States and may be recovered in a civil suit brought by the United States: *Provided*, That subsections (a) and (b) of this section shall be in addition to, and not exclusive of, the remedies provided now or hereafter

existing at law or in equity. (Pub. L. 93–428, § 15, Oct. 1, 1974, 88 Stat. 1177.)

EFFECTIVE DATE

Section effective Oct. 1, 1974, see section 21 of Pub. L. 93–428, set out as a note under section 2701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2713 of this title.

§ 2715. Certification of organizations; required contents of report as criteria.

The eligibility of any organization to represent commercial egg producers of any egg producing area of the United States to request the issuance of an order under section 2704 of this title, and to participate in the making of nominations under section 2707(b) of this title shall be certified by the Secretary. Certification shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to, the following:

(a) Geographic territory covered by the organization's active membership,

(b) Nature and size of the organization's active membership, proportion of total of such active membership accounted for by producers of commercial eggs, a chart showing the egg production by State in which the organization has members, and the volume of commercial eggs produced by the organization's active membership in each such State,

(c) The extent to which the commercial egg producer membership of such organization is represented in setting the organization's policies,

(d) Evidence of stability and permanency of the organization,

(e) Sources from which the organization's operating funds are derived,

(f) Functions of the organization, and

(g) The organization's ability and willingness to further the aims and objectives of this chapter: *Provided, however,* That the primary consideration in determining the eligibility of an organization shall be whether its commercial egg producer membership consists of a substantial number of egg producers who produce a substantial volume of commercial eggs. The Secretary shall certify any organization which he finds to be eligible under this section and his determination as to eligibility shall be final. Where more than one organization is certified in any geographic area, such organizations may caucus to determine the area's nominations under section 2707(b) of this title.

(Pub. L. 93–428, § 16, Oct. 1, 1974, 88 Stat. 1178.)

EFFECTIVE DATE

Section effective Oct. 1, 1974, see section 21 of Pub. L. 93–428, set out as a note under section 2701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2704, 2707 of this title.

§ 2716. Regulations.

The Secretary is authorized to make regulations with force and effect of law, as may be necessary to carry out the provisions of this chapter and the powers vested in him by this chapter. (Pub. L. 93–428, § 17, Oct. 1, 1974, 88 Stat. 1178.)

EFFECTIVE DATE

Section effective Oct. 1, 1974, see section 21 of Pub. L. 93–428, set out as a note under section 2701 of this title.

§ 2717. Investigations by Secretary; oaths and affirmations; subpenas; judicial enforcement; contempt proceedings; service of process.

The Secretary may make such investigations as he deems necessary for the effective carrying out of his responsibilities under this chapter or to determine whether an egg producer, processor, or other seller of commercial eggs or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provisions of this chapter, or of any order, or rule or regulation issued under this chapter. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, including an egg producer, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. (Pub. L. 93–428, § 18, Oct. 1, 1974, 88 Stat. 1178.)

EFFECTIVE DATE

Section effective Oct. 1, 1974, see section 21 of Pub. L. 93–428, set out as a note under section 2701 of this title.

§ 2718. Authorization of appropriations.

There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this chapter. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Egg Board in administering any provisions of any order issued pursuant to the terms of this chapter. (Pub. L. 93–428, § 20, Oct. 1, 1974, 88 Stat. 1179.)

EFFECTIVE DATE

Section effective Oct. 1, 1974, see section 21 of Pub. L. 93–428, set out as a note under section 2701 of this title.

Chapter 61.—NOXIOUS WEEDS [NEW]

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2803. Movement of noxious weeds into or through the United States or interstate.
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Sec.
2803. Movement of noxious weeds into or through the United States or interstate—Continued
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§ 2801. Congressional findings.

The importation or distribution in interstate commerce of noxious weeds, except under controlled conditions, allows the growth and spread of such weeds which interfere with the growth of useful plants, clog waterways and interfere with navigation, cause disease, or have other adverse effects upon man or his environment and therefore is detrimental to the agriculture and commerce of the United States and to the public health. The uncontrolled distribution within the United States of noxious weeds after their importation or interstate distribution has like detrimental effects and allowing such distribution encourages and facilitates the burdening and obstructing of interstate and foreign commerce, and is inimical to the public interest. Accordingly, the Congress hereby determines that the regulation of transactions in, and movement of, noxious weeds as provided in this chapter is necessary to prevent and eliminate burdens upon and obstructions to interstate and foreign commerce and to protect the public welfare. (Pub. L. 93–629, § 2, Jan. 3, 1975, 88 Stat. 2148.)

SHORT TITLE

Section 1 of Pub. L. 93–629 provided: "That this Act [enacting this chapter] may be cited as the 'Federal Noxious Weed Act of 1974'."

§ 2802. Definitions.

As used in this chapter, except where the context otherwise requires:

(a) "Secretary" means the Secretary of Agriculture of the United States or any other person to whom authority may be delegated to act in his stead.

(b) "Authorized inspector" means any employee of the Department of Agriculture, or any employee of any other agency of the Federal Government or of any State or other governmental agency which is cooperating with the Department in administration of any provisions of this chapter, who is authorized by the Secretary to perform assigned duties under this chapter.

(c) "Noxious weed" means any living stage (including but not limited to, seeds and reproductive parts) of any parasitic or other plant of a kind, or subdivision of a kind, which is of foreign origin, is new to or not widely prevalent in the United States, and can directly or indirectly injure crops, other useful plants, livestock, or poultry or other interests of agriculture, including irrigation, or navigation or the fish and wildlife resources of the United States or the public health.

(d) "United States" means any of the States, territories, or districts of the United States.

(e) "Interstate" means from any State, territory, or district of the United States into or through any other State, territory, or district.

(f) "District" means the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States.

(g) "Move" means deposit for transmission in the mails, ship, offer for shipment, offer for entry, import, receive for transportation, carry, or otherwise transport or move, or allow to be moved, by mail or otherwise. (Pub. L. 93–629, § 3, Jan. 3, 1975, 88 Stat. 2148.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2809 of this title.

§ 2803. Movement of noxious weeds into or through the United States or interstate.

(a) Permits; regulations.

No person shall knowingly move any noxious weed, identified in a regulation promulgated by the Secretary, into or through the United States or interstate, unless such movement is authorized under general or specific permit from the Secretary and is made in accordance with such conditions as the Secretary may prescribe in the permit and in such regulations as he may promulgate under this chapter to prevent the dissemination into the United States, or interstate, of such noxious weeds.

(b) Refusal of permit to prevent danger of dissemination.

The Secretary may refuse to issue a permit for the movement of any such noxious weed when, in his opinion, such movement would involve a danger of dissemination of such noxious weeds into the United States or interstate.

(c) Unlawful sale, purchase, and transportation, and advertisements for unlawful sale, purchase, and transportation.

No person shall knowingly sell, purchase, barter, exchange, give, or receive any such noxious weed which has been moved in violation of subsection (a) of this section, or knowingly deliver or receive for transportation or transport, in interstate or foreign commerce, any advertisement to sell, purchase, barter, exchange, give, or receive any such noxious weed which is prohibited from movement in such commerce under this chapter. (Pub. L. 93–629, § 4, Jan. 3, 1975, 88 Stat. 2149.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2807, 2809 of this title.

§ 2804. Quarantine.

(a) Regulations for inspection.

The Secretary may promulgate such quarantines and other regulations requiring inspection of products and articles of any character whatsoever and means of conveyance, specified in the regulations, as a condition of their movement into or through the United States and otherwise restricting or prohibiting such movement, as he deems necessary to prevent the dissemination into the United States of any noxious weeds, and it shall be unlawful for any person to move any products, articles, or means of conveyance into or through the United States contrary to any such regulation.

(b) Temporary quarantine of areas suspected of infestation; maximum period.

Whenever the Secretary has reason to believe that an infestation of noxious weeds exist in any State, territory, or district, he may by regulation temporarily quarantine such jurisdiction, or a portion thereof, and by regulation may restrict or prohibit the interstate movement from the quarantined area of any products and articles of any character whatsoever and means of conveyance, capable of carrying such noxious weeds, and after promulgation of such quarantine and other regulations, it shall be unlawful for any person to move interstate from a quarantined area any such products, articles, or means of conveyance, specified in the regulations, except in accordance with such regulations: *Provided, however,* That such quarantine and regulations shall expire at the close of the ninetieth day after their promulgation.

(c) Promulgation after determination of necessity at public hearing.

However, if, after public hearing, the Secretary determines, on the basis of the information received at the hearing and other information available to him, that such a quarantine and regulations are necessary in order to prevent the interstate spread of noxious weeds from any State, territory, or district in which he determines an infestation of noxious weeds exists, and to protect the agriculture, commerce, fish, or wildlife resources of the United States or the public health, he shall promulgate such quarantine and other regulations as he determines are appropriate for such purposes, and thereafter it shall be unlawful for any person to move interstate from any quarantined area any regulated products, articles, or means of conveyance except in accordance with such regulations. (Pub. L. 93–629, § 5, Jan. 3, 1975, 88 Stat. 2149.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2807 of this title.

§ 2805. Measures to prevent dissemination.

(a) Emergency disposal of infested products and articles.

Except as provided in subsection (c) of this section, the Secretary may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any noxious weed, seize, quarantine, treat, destroy, or otherwise dispose of, in such manner as he deems appropriate, any product or article of any character whatsoever, or means of conveyance, which is moving into or through the United States or interstate, in bond or otherwise, and which he has reason to believe is infested by any noxious weed or contains any such weed, or which has moved into the United States, or interstate, and which he has reason to believe was infested by or contained any noxious weed at the time of such movement; and any noxious weed, product, article, or means of conveyance which is moving into or through the United States, or interstate, or has moved into the United States, or interstate, in violation of this chapter or any regulation hereunder.

(b) Orders requiring disposal by owner; enforcement.

Except as provided in subsection (c) of this section, the Secretary may order the owner of any product, article, means of conveyance, or noxious weed subject to disposal under subsection (a) of this section, or his agent, to treat, destroy, or make other disposal of such product, article, means of conveyance, or noxious weed, without cost to the Federal Government and in such manner as the Secretary deems appropriate. The Secretary may apply to the United States District Court, or to the United States court of any territory or possession, for the judicial district in which such person resides or transacts business or in which the product, article, means of conveyance, or noxious weed is found, for enforcement of such order by injunction, mandatory or otherwise. Process in any such case may be served in any judicial district wherein the defendant resides or transacts business or may be found, and subpenas for witnesses who are required to attend a court in any judicial district in such a case may run to any other judicial district.

(c) Destruction, export, or return as the least drastic action.

No product, article, means of conveyance, or noxious weed shall be destroyed, exported, or returned to shipping point of origin, or ordered to be destroyed, exported, or so returned under this section, unless in the opinion of the Secretary there is no less drastic action which would be adequate to prevent the dissemination of noxious weeds into the United States or interstate.

(d) Actions against United States by owners; limitations; just compensation for unlawful disposal.

The owner of any product, article, means of conveyance, or noxious weed destroyed, or otherwise disposed of, by the Secretary under this section, may bring an action against the United States in the United States District Court for the District of Columbia, within one year after such destruction or disposal, and recover just compensation for such destruction or disposal of such product, article, means of conveyance, or noxious weed (not including compensation for loss due to delays incident to determining its eligibility for movement under this chapter) if the owner establishes that such destruction or disposal was not authorized under this chapter. Any judgment rendered in favor of such owner shall be paid out of the money in the Treasury appropriated for administration of this chapter. (Pub. L. 93–629, § 6, Jan. 3, 1975, 88 Stat. 2149.)

§ 2806. Warrantless search of persons and goods; search of premises with warrants; issuance and execution of warrants.

Any authorized inspector, when properly identified, shall have authority (a) without a warrant, to stop any person or means of conveyance moving into the United States, and inspect any noxious weeds and any products and articles of any character whatsoever, carried thereby, and inspect such means of conveyance, to determine whether such person or means of conveyance is moving any noxious weed, product, article, or means of conveyance contrary to this chapter or any regulation under this chapter; (b) without a warrant, to stop any person or means of conveyance moving through the United States or interstate, and inspect any noxious weeds and any products and articles of any character whatsoever carried thereby, and inspect such means of conveyance, to determine whether such person or means of conveyance is moving any noxious weed, product, article, or means of conveyance contrary to this chapter or any regulation thereunder, if such inspector has probable cause to believe that such person or means of conveyance is moving any noxious weed regulated under this chapter; and (c) to enter, with a warrant, any premises in the United States, for purposes of any inspections or other actions necessary under this chapter. Any judge of the United States or of a court of record of any State, territory, or district, or a United States commissioner, may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause to believe that there are on certain premises any products, articles, means of conveyance, or noxious weeds subject to this chapter, issue warrants for the entry of such premises for purposes of any inspection or other action necessary under this chapter, except as otherwise provided in section 2808 of this title. Such warrants may be executed by any authorized inspector or any United States marshal. (Pub. L. 93–629, § 7, Jan. 3, 1975, 88 Stat. 2150.)

§ 2807. Penalties.

Any person who knowingly violates section 2803 or 2804 of this title, or any regulation promulgated under this chapter, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or both. (Pub. L. 93–629, § 8, Jan. 3, 1975, 88 Stat. 2151.)

§ 2808. Cooperation with other Federal, State, and Local agencies.

(a) The Secretary is authorized to cooperate with other Federal agencies, agencies of States, territories, or districts, or political subdivisions thereof, farmers' associations, and similar organizations, and individuals in carrying out operations or measures in the United States to eradicate, suppress, control, or prevent or retard the spread of any noxious weed. The Secretary is authorized to appoint employees of other agencies of the Federal Government or any agencies of any State, territory, or district, or political subdivisions thereof, as collaborators to assist in administration of the provisions of this chapter, pursuant to cooperative agreements with such agencies, whenever he determines that such appointments would facilitate administration of this chapter.

(b) In performing the operations or measures authorized by subsection (a) of this section, the cooperating State or other governmental agency shall be responsible for the authority necessary to carry out the operations or measures on all lands and properties within the State or other jurisdiction involved, other than those owned or controlled by the United States Government, and for such other facilities and means as in the discretion of the Secretary are necessary. (Pub. L. 93–629, § 9, Jan. 3, 1975, 88 Stat. 2151.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2806, 2810 of this title.

§ 2809. Regulations.

The Secretary is authorized to promulgate regulations necessary to effectuate the provisions of this chapter. However, any regulation identifying a noxious weed under section 2803 of this title shall be promulgated only after publication of a notice of the proposed regulation and, when requested by any interested person, a public hearing on the proposal. Any such regulation shall be based upon the information received at any such hearing and other information available to the Secretary and a determination by the Secretary that the plant is within the definition of a noxious weed in section 2802(c) of this title and that its dissemination in the United States may reasonably be expected to have, to a serious degree, any effect specified in section 2802 (c) of this title. (Pub. L. 93–629, § 10, Jan. 3, 1975, 88 Stat. 2151.)

§ 2810. Authorization of appropriations.

There are hereby authorized to be appropriated such sums as Congress may from time to time determine to be necessary for the administration of this chapter. Any sums so appropriated shall be available for expenditures for the purchase, hire, maintenance, operation, and exchange of aircraft and other means of conveyance, and for such other expenses as may be necessary to carry out the purposes of this chapter. However, unless specifically authorized in other legislation or provided for in appropriations, no part of such sums shall be used to pay the cost or value of property injured or destroyed under section 2808 of this title. (Pub. L. 93–629, § 11, Jan. 3, 1975, 88 Stat. 2151.)

§ 2811. Inapplicability to certain shipments.

The provisions of this chapter shall not apply to shipments of seed subject to the Federal Seed Act (7 U.S.C. 1551 et seq.) and this chapter shall not amend or repeal any of the provisions of said Act or of the Plant Quarantine Act of August 20, 1912 (7 U.S.C. 151–154, 156–164a, 167), the Federal Plant Pest Act (7 U.S.C. 150aa–150jj), or any other Federal laws. (Pub. L. 93–629, § 12, Jan. 3, 1975, 88 Stat. 2152.)

§ 2812. Inconsistent State and local laws.

The provisions of this chapter shall not invalidate the provisions of the laws of any State or political subdivision thereof, or of any territory or district of the United States relating to noxious weeds, except that no such jurisdiction may permit any action that is prohibited under this chapter. (Pub. L. 93–629, § 13, Jan. 3, 1975, 88 Stat. 2152.)

§ 2813. Separability of provisions.

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provision to other persons and circumstances shall not be affected thereby. (Pub. L. 93–629, § 14, Jan. 3, 1975, 88 Stat. 2152.)